

Assembly
MINUTES

1203

COMMERCE COMMITTEE - NEVADA STATE LEGISLATURE - 58TH SESSION

MAY 5, 1975

The meeting was called to order by Chairman Robinson at 4:40 P.M.

MEMBERS PRESENT: Mr. Benkovich
Mr. Demers
Mr. Getto
Mr. Moody
Mr. Harmon
Mr. Hickey
Mr. Schofield
Mr. Wittenberg
Mr. Chairman

MEMBERS ABSENT: None

SPEAKING GUESTS: Gene Milligan, Nevada Association of Realtors
Assemblyman Vergiels
Bob Weld, Southern Nevada Homebuilders
Assemblyman Hayes
Shirley Katt, Washoe County DA's Office
Rusty Nash, Deputy District Attorney - Consumer
Protection Division
Joe Lawler, Consumer Affairs Division
Bob Guinn, Franchised Auto Dealers
Don Helwinkle, Nevada Franchised Auto Dealers
John Hope, Auto Dealer
Dick Garrod, Farmers Insurance Group
Lou Paley, U.F.L.C.I.O.
Bud Meneley, Nevada Independent Insurance Agents
Bill Shewan, State Highway Department

The first bill to be discussed was SB 515 which:

Changes funeral director and embalmer licensing
qualifications and increases licensing fees.

Assemblyman Schofield spoke in favor of this bill on behalf of
Senator Schofield. The thrust of this bill is to reduce requirements
to become an apprentice embalmer. The present requirements are so
difficult as to discourage young embalmers from obtaining work in
this State. It will make it easier for funeral home directors to
obtain new personnel. It will update requirements and fees to
conform with current economic conditions. He said the Nevada
Funeral Directors Association and the State Board of Funeral
Directors and Embalmers are in support of this bill.

Mr. Wittenberg questioned the lower of the age to 18 and felt it
could not apply when taking into consideration the educational
requirements.

This concluded testimony on this bill and discussion turned to
AB 697 and AB 754. Mr. Vergiels sponsored AB 697 and informed the
committee that he was withdrawing his bill in favor of AB 754 which:

Substantially revises law relating to condominiums and cooperatives.

Gene Milligan of the Nevada Association of Realtors commented that he had had questions on this bill but they have all been answered. It is a detailed and comprehensive bill and it probably does a good job. It is modeled after a Florida bill which has turned out to be fairly successful. The Nevada Association of Realtors supports this bill.

Mr. Vergiels commented that he withdrew his bill because it called for too much of a bond and conflicted with AB 101.

Mr. Vergiels, Karen Hayes and Gene Milligan will work on this bill to have it amended on the Floor.

Bob Weld commented that he accepted Karen's bill in totality.

Mr. Vergiels said that AB 754 will protect the owner and the builder. Mr. Milligan said it standardizes the condominium agreements. With regard to maintenance, Mr. Vergiels said that AB 101 addressed itself to this and they did not want AB 754 to harm that bill but AB 754 includes the same characteristics as AB 101.

Mrs. Hayes said there has been a problem with the accounting of the condominium fees. This bill would require that they file a financial statement with the County Clerk. Homeowners are supposed to get a notice of what the money has been spent on. This is not now being done. This bill would make it standard and the homeowners could go to the County Clerk's Office and get a copy of this statement. Mrs. Hayes commented that this bill covers what we now have plus what we need.

SB 300 was then taken up which:

Prohibits unauthorized motor vehicle repair and requires cost estimates and invoices of charges.

Shirley Katt of the Washoe County DA's Office spoke in favor of this bill. She said the reason for this bill is the fact that automobile repair has been for the past three years the largest area of complaint. In 1972 159 out of 606 complaints were in this area. In 1973 106 out of 356 were in this area and in 1974, 205 out of 793 were in this area. So far this year, 43 out of 213 complaints have been in the area of auto repair. In 1974 18% of the complaints received by the Better Business Bureau dealt with auto repair. She said the main area of concern was the written estimate. The repair bill may be double or triple what was verbally discussed. When a customer signs an authorization, he is signing a blank check. Additional repair work is undertaken by the garage without the foreknowledge of the customer. She said they feel the consumer should be informed. She said the consumer often does not understand that when a garageman takes their car apart and the consumer decides they don't want the job done, the garage will still charge for the disassembling and the reassembling without doing any repairs.

She went on to say that the majority of the percentages given are with regard to the cost of repair not being what it was thought to be. She said there was no particular garage that received the majority of the complaints but rather that it was a common problem although a few garages have more complaints than others.

Mr. Demers asked how many of these complaints were the fault of the customer and how many were the fault of the garage. She said she could not really answer that as it is difficult to determine who is at fault in a misunderstanding. There is no violation because it is only a verbal agreement. The DA's office has been acting as mediator because most of the garage owners are cooperative.

Mr. Wittenberg wondered if they have had any success with the present statutes. She said the replacement of parts is covered under Deceptive Trade Practices but the present statutes are not designed to take care of estimates.

Mr. Hickey was concerned that the garage owner would be protected from being wrongly accused. She said that the fact that the Second Reprint of this bill makes the written estimate available upon request rather than mandatory perhaps is what they are trying to do to compromise for protection. She said they recognize that all complaints are not valid and that it has never been their intent to pursue a complaint of that nature.

Dr. Robinson wondered if they would have any objection to putting more protection into the bill for the garage owner by having the consumer going down to authorize repair rather than over the phone. She said this was considered but it would create much delay working on the car tying up man hours and garage space. This was why they did not put this in the bill.

Dr. Robinson wondered if this would have a potential danger in garage owners making every estimate higher than it needs to be in order to protect himself. Mr. Wittenberg felt competition would remedy this. Mr. Wittenberg also commented that he sponsored a similar bill last session and that this bill is much better and seems to take care of any complaints there were.

Mr. Demers wondered how many of these complaints were settled over the telephone. She said not a high percentage because they don't use their office as a means to do this. They just call and discuss the matter and if the party wants to do anything about it voluntarily they can but if they don't, the DA's office can do nothing. She added that their figures are limited to Washoe County only.

Rusty Nash then spoke saying he drafted the original bill and that this one bears little resemblance. He said the current bill was primarily drafted by the auto repair industry. He said he was not as happy with this bill but he did think it a good bill and that it would solve many problems. He said the greatest number of complaints are that a larger price was charged than expected which would not have been authorized had the customer known it was to be that much. The main thing is to give the customer some idea of what he is getting into. Essentially what this does is

it requires the garageman to supply a written estimate if requested and he must have a sign up in his place of business stating this. It is only to be a "ballpark" estimate. With the exception of those that fall under the Deceptive Trade Practices, the DA's Office has no way to resolve these problems except by persuasion.

Joe Lawler then spoke saying he concurred with Mr. Nash. He said we have the image of our State to maintain. He said many garages in "cow counties" prey on tourists.

Bob Guinn said it is something the garages can live with but to say they are backing this enthusiastically is not true. He said there is no way they could supply a written estimate for everyone and he added that this will result in increased cost to the consumer.

Don Helwinkle spoke saying he was not for or against this bill. He said they can live with it if need be. It is going to cost someone some money because they will probably have to hire an additional person to write up these estimates. He also pointed out that writing these estimates will be time consuming and this is something to consider in a tourist oriented area. He said there is a possibility that if several people are waiting, the ones that don't request estimates may get fixed first. He also commented that some people would rather not complicate their business and would turn those people requesting estimates down.

John Hope then spoke. He said he is a medium-sized dealership and at the present time they are making estimates for about 5% of their customers. With the passage of this bill, he thought this would go to 20%. This would mean putting another man on the floor. Based on their hours per month, he is would have... to increase his labor rate \$1.00 per hour to all his customers.

AB 729 was then discussed. It:

Permits private insurance carriers to write
workmen's compensation insurance.

Dick Garrod spoke in favor of the bill. He said the issue was private enterprise vs. state operation. He said they are interested in being able to sell workmen's compensation in the State of Nevada. He did comment that this bill should be reviewed because some of the language is a bit archaic. He said they are in support of the philosophy of this measure. He said one of the faults with the bill was on Page 4, starting on Line 42 it states "in accordance with the Nevada Administrative Procedures Act the Commission shall... and on Page 5, Line 8, a review by the Commission is stricken and they have inserted "to review by the appeals officer of any determination or review by the Commission". He said as he read this, it means an appeals officer of the Nevada Administrative Procedure Board and he could not see how an appeals officer could have any knowledge in the type of insurance, benefits paid and benefits due, etc. He did not think you could have an appeals officer from the Nevada Administrative Procedure group hearing a review on the Commission. He felt it should be the Insurance Commissioner, the Commission or the Courts.

On Page 8, Line 19, he said they like to have the time of the accident and it can mean many types of things.

Dr. Robinson commented that he felt this bill would have to be worked on in the interim and brought up early in the next Session.

Lou Paley then spoke and submitted a study which is Bulletin 104 which touches on this subject. A copy of this study is attached hereto.

Mr. Wittenberg then moved that the committee introduce a resolution to establish a legislative interim study group to study private insurance carriers offering workmen's compensation. This was seconded by Mr. Harmon and carried the committee with Mr. Benkovich voting "no". Mr. Garrod commented that he was interested in participating in this. Mr. Meneley said he would wholeheartedly approve an interim study. He said this bill came out too late and was not really the bill he wanted. He commented that the study submitted by Mr. Paley was a general study of the NIC and only a small part of it focused on this problem. He said his association would be very happy to participate in this study in any way they can.

Mr. Wittenberg moved that AB 729 be "indefinitely postponed". This was seconded by Mr. Demers and carried the committee.

SB 587 was then taken up which:

Permits accelerated payments in certain instances to contractors performing highway improvement or construction.

Bill Shewan of the State Highway Department spoke briefly on this bill giving the committee a hypothetical situation to explain how the bill would work. He requested favorable consideration of this bill and said he felt if the contractors benefit by this then so will the taxpayer.

Mr. Wittenberg moved that SB 587 be "do passed". This was seconded by Mr. Demers and carried the committee.

Mr. Demers moved that SB 300 be "do passed". This was seconded by Mr. Wittenberg and carried the committee with Mr. Moody, Mr. Robinson and Mr. Harmon "not voting".

AB 653 and AB 716 came up and Mr. Demers commented that AB 716 is a better thought out measure. Mr. Wittenberg moved that AB 716 be "do passed". This was seconded by Mr. Hickey and carried the committee with Mr. Benkovich and Mr. Moody voting "no".

Mr. Wittenberg then moved that AB 653 be "indefinitely postponed". This was seconded by Mr. Demers and carried the committee with Mr. Benkovich "not voting".

Mr. Harmon moved that AB 754 be "do passed". This was seconded by Mr. Schofield and carried the committee unanimously.

Mr. Wittenberg moved that AB 697 be "indefinitely postponed". This was seconded by Mr. Demers and carried the committee unanimously.

Mr. Schofield moved that SB 515 be "do passed". This was seconded by Mr. Benkovich and carried the committee with Mr. Wittenberg voting "no" and Mr. Moody and Mr. Hickey "not voting". Mr. Wittenberg advised the committee that he would be offering amendments to this bill on the Floor. He was opposed to the age being lowered from 21 to 18.

Mr. Harmon moved that the amendments proposed by Daisy Talvitie be adopted to AB 708. This was seconded by Mr. Demers and carried the committee with Mr. Wittenberg voting "no". Mr. Demers commented that this is solving Southern Nevada's problem but not Northern Nevada's. He also was afraid Sierra Pacific was trying to remove their controls altogether. It was decided that Mr. Demers and Mr. Getto will work together on an amendment to this bill to propose on the Floor.

Mr. Hickey then moved that AB 708 be "do passed as amended". This was seconded by Mr. Harmon and carried the committee with Mr. Wittenberg voting "no".

Mr. Getto moved that AB 675 be "indefinitely postponed". This was seconded by Mr. Wittenberg and carried the committee unanimously.

Mr. Wittenberg moved that Amendment No. 8533 be adopted to AB 541. This was seconded by Mr. Demers and carried the committee with Mr. Hickey and Mr. Schofield "not voting". Mr. Wittenberg then moved that AB 541 be "do passed as amended". This was seconded by Mr. Moody and carried the committee with Mr. Schofield "not voting".

Mr. Demers moved that Amendment No. 8536 be adopted to AB 603. This was seconded by Mr. Schofield and carried the committee unanimously. Mr. Getto then moved that AB 603 be "do passed as amended". This was seconded by Mr. Schofield and carried the committee unanimously.

Mr. Wittenberg moved that AB 537 be "do passed". This was seconded by Mr. Moody and carried the committee with Mr. Hickey, Demers, Schofield and Benkovich voting "no".

Mr. Schofield moved that amendments be adopted to AB 539. This was seconded by Mr. Demers and carried the committee with Mr. Getto voting "no". Mr. Schofield then moved that AB 539 be "do passed as amended". This was seconded by Mr. Hickey and carried the committee with Mr. Wittenberg, Moody, Getto and Benkovich voting "no".

Mr. Harmon moved that AB 704 be "do passed". This was seconded by Mr. Benkovich and carried the committee with Mr. Wittenberg and Mr. Hickey "not voting".

Mr. Wittenberg moved that AB 700 be "do passed". This was seconded by Mr. Getto and carried the committee unanimously.

With regard to AB 659, it was decided that the brackets on Page 5, Lines 30-32 would be deleted to restore original language. Mr. Demers moved that this amendment be adopted. This was seconded by Mr. Harmon and carried the committee unanimously. Mr. Harmon moved that AB 659 be "do passed as amended". This was seconded by Mr. Demers and carried the committee unanimously.

Mr. Demers moved that AB 625 be "do passed". This was seconded by Mr. Hickey and carried the committee with Mr. Getto and Mr. Wittenberg voting "no".

With no further business, the meeting was adjourned at 7:00 P.M.

Respectfully submitted,

Joan Anderson, Secretary

AGENDA FOR COMMITTEE ON.....COMMERCE.....

Date MAY 5, 1975 Time 3:00 P.M. Room 316

| Bills or Resolutions to be considered | Subject | Counsel requested* |
|---------------------------------------|---|--------------------|
| <i>DO PASS</i> SB 300 | Prohibits unauthorized motor vehicle repair and requires cost estimates and invoices of charges | |
| <i>IP</i> AB 729 | Permits private insurance carriers to write workmen's compensation insurance. | |
| <i>DO PASS</i> SB 515 | Changes funeral director and embalmer licensing qualifications and increases licensing fees. | |
| <i>IP</i> AB 697 | Substantially revises condominium law. | |
| <i>DO PASS</i> AB 754 | Substantially revises law relating to condominiums and cooperatives. | |

*Please do not ask for counsel unless necessary.

58TH NEVADA LEGISLATURE

COMMERCE COMMITTEE
LEGISLATION ACTION

1210

DATE May 5, 1975

SUBJECT AB 537 - Requires waiting period before unemployed individual
may receive benefits.

MOTION:

Do Pass X Amend _____ Indefinitely Postpone _____ Reconsider _____

Moved By Mr. Wittenberg Seconded By Mr. Moody

AMENDMENT:

Moved By _____ Seconded By _____

AMENDMENT:

Moved BY _____ Seconded By _____

| VOTE: | <u>MOTION</u> | | <u>AMEND</u> | | <u>AMEND</u> | |
|------------|---------------|-----------|--------------|-----------|--------------|-----------|
| | <u>Yes</u> | <u>No</u> | <u>Yes</u> | <u>No</u> | <u>Yes</u> | <u>No</u> |
| Robinson | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Harmon | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Demers | _____ | <u>X</u> | _____ | _____ | _____ | _____ |
| Hickey | _____ | <u>X</u> | _____ | _____ | _____ | _____ |
| Moody | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Schofield | _____ | <u>X</u> | _____ | _____ | _____ | _____ |
| Wittenberg | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Benkovich | _____ | <u>X</u> | _____ | _____ | _____ | _____ |
| Getto | <u>X</u> | _____ | _____ | _____ | _____ | _____ |

ORIGINAL MOTION: Passed X Defeated _____ Withdrawn _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

Attached to Minutes May 5, 1975

58TH NEVADA LEGISLATURE

COMMERCE COMMITTEE
LEGISLATION ACTION

1211

DATE May 5, 1975

SUBJECT AB 539 - Permits registered representatives to offer
subdivision land for sale.

MOTION: 1. Adopt amendments X 2. Do pass as amended X

Do Pass _____ Amend _____ Indefinitely Postpone _____ Reconsider _____

Moved By 1. Schofield 2. Schofield Seconded By 1. Demers 2. Hickey

AMENDMENT: _____

Moved By _____ Seconded By _____

AMENDMENT: _____

Moved BY _____ Seconded By _____

| VOTE: | MOTION | | AMEND | | AMEND | |
|------------|------------|-------------|-------|-------|-------|-------|
| | Yes | No | Yes | No | Yes | No |
| Robinson | <u>x</u> | _____ | _____ | _____ | _____ | _____ |
| Harmon | <u>x</u> | _____ | _____ | _____ | _____ | _____ |
| Demers | <u>x</u> | _____ | _____ | _____ | _____ | _____ |
| Hickey | <u>x</u> | _____ | _____ | _____ | _____ | _____ |
| Moody | <u>1.x</u> | 2. <u>x</u> | _____ | _____ | _____ | _____ |
| Schofield | <u>x</u> | _____ | _____ | _____ | _____ | _____ |
| Wittenberg | <u>1.x</u> | 2. <u>x</u> | _____ | _____ | _____ | _____ |
| Benkovich | <u>1.x</u> | 2. <u>x</u> | _____ | _____ | _____ | _____ |
| Getto | _____ | <u>x</u> | _____ | _____ | _____ | _____ |

ORIGINAL MOTION: Passed x Defeated _____ Withdrawn _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

Attached to Minutes May 5, 1975

58TH NEVADA LEGISLATURE

COMMERCE COMMITTEE
LEGISLATION ACTION

1212

DATE May 5, 1975

SUBJECT AB 541 - Restricts use of professional engineer's seal and
changes qualification of applicants for certificate to practice
land surveying.

MOTION: 1. Adopt amendments X 2. Do pass as amended X
Do Pass Amend Indefinitely Postpone Reconsider

Moved By 1. Wittenberg 2. Wittenberg Seconded By 1. Demers 2. Moody

AMENDMENT:

Moved By _____ Seconded By _____

AMENDMENT:

Moved BY _____ Seconded By _____

| VOTE: | MOTION | | AMEND | | AMEND | |
|------------|-------------------|---------------|-------|-------|-------|-------|
| | Yes | No | Yes | No | Yes | No |
| Robinson | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Harmon | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Demers | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Hickey | 1. Not voting | 2. <u>Yes</u> | _____ | _____ | _____ | _____ |
| Moody | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Schofield | <u>Not voting</u> | _____ | _____ | _____ | _____ | _____ |
| Wittenberg | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Benkovich | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Getto | <u>X</u> | _____ | _____ | _____ | _____ | _____ |

ORIGINAL MOTION: Passed X Defeated Withdrawn

AMENDED & PASSED AMENDED & DEFEATED

AMENDED & PASSED AMENDED & DEFEATED

Attached to Minutes May 5, 1975

COMMERCE COMMITTEE
LEGISLATION ACTION

DATE May 5, 1975

SUBJECT AB 603 - Prohibits professional engineers employed by public agencies from engaging in the private practice of professional engineering during hours of duty with such agencies.

MOTION: 1. Adopt amendments X 2. Do pass as amended X

Do Pass _____ Amend _____ Indefinitely Postpone _____ Reconsider _____

Moved By 1. Demers 2. Getto Seconded By 1. Schofield 2. Schofield

AMENDMENT: _____

Moved By _____ Seconded By _____

AMENDMENT: _____

Moved BY _____ Seconded By _____

| VOTE: | <u>MOTION</u> | | <u>AMEND</u> | | <u>AMEND</u> | |
|------------|---------------|-----------|--------------|-----------|--------------|-----------|
| | <u>Yes</u> | <u>No</u> | <u>Yes</u> | <u>No</u> | <u>Yes</u> | <u>No</u> |
| Robinson | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Harmon | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Demers | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Hickey | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Moody | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Schofield | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Wittenberg | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Benkovich | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Getto | <u>X</u> | _____ | _____ | _____ | _____ | _____ |

ORIGINAL MOTION: Passed X Defeated _____ Withdrawn _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

Attached to Minutes May 5, 1975

DATE May 5, 1975

SUBJECT AB 625 - Permits mobile home buyer to rescind contract with
dealer within specified time period.

MOTION:

Do Pass X Amend _____ Indefinitely Postpone _____ Reconsider _____

Moved By Mr. Demers Seconded By Mr. Hickey

AMENDMENT:

Moved By _____ Seconded By _____

AMENDMENT:

Moved BY _____ Seconded By _____

| VOTE: | MOTION | | AMEND | | AMEND | |
|------------|------------------------------------|----------|-------|-------|-------|-------|
| | Yes | No | Yes | No | Yes | No |
| Robinson | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Harmon | <u>Not present at time of vote</u> | | | | | |
| Demers | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Hickey | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Moody | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Schofield | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Wittenberg | _____ | <u>X</u> | _____ | _____ | _____ | _____ |
| Benkovich | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Getto | _____ | <u>X</u> | _____ | _____ | _____ | _____ |

ORIGINAL MOTION: Passed X Defeated _____ Withdrawn _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

Attached to Minutes May 5, 1975

COMMERCE COMMITTEE
LEGISLATION ACTION

1215

DATE May 5, 1975

SUBJECT AB 653 - Requires local governing body to establish thermal design requirements.

MOTION:

Do Pass _____ Amend _____ Indefinitely Postpone x Reconsider _____

Moved By Mr. Wittenberg Seconded By Mr. Demers

AMENDMENT:

Moved By _____ Seconded By _____

AMENDMENT:

Moved BY _____ Seconded By _____

| VOTE: | <u>MOTION</u> | | <u>AMEND</u> | | <u>AMEND</u> | |
|------------|------------------------------------|-----------|--------------|-----------|--------------|-----------|
| | <u>Yes</u> | <u>No</u> | <u>Yes</u> | <u>No</u> | <u>Yes</u> | <u>No</u> |
| Robinson | <u>x</u> | _____ | _____ | _____ | _____ | _____ |
| Harmon | <u>x</u> | _____ | _____ | _____ | _____ | _____ |
| Demers | <u>x</u> | _____ | _____ | _____ | _____ | _____ |
| Hickey | <u>x</u> | _____ | _____ | _____ | _____ | _____ |
| Moody | <u>x</u> | _____ | _____ | _____ | _____ | _____ |
| Schofield | <u>x</u> | _____ | _____ | _____ | _____ | _____ |
| Wittenberg | <u>x</u> | _____ | _____ | _____ | _____ | _____ |
| Benkovich | <u>NOT voting</u> | | _____ | _____ | _____ | _____ |
| Getto | <u>Not present at time of vote</u> | | _____ | _____ | _____ | _____ |

ORIGINAL MOTION: Passed x Defeated _____ Withdrawn _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

Attached to Minutes May 5, 1975

58TH NEVADA LEGISLATURE

COMMERCE COMMITTEE
LEGISLATION ACTION

1216

DATE May 5, 1975

SUBJECT AB 659 - Makes various changes in small loan law.

MOTION: 1. Adopt amendments X 2. Do pass as amended X

Do Pass Amend Indefinitely Postpone Reconsider

Moved By 1. Demers 2. Harmon Seconded By 1. Harmon 2. Demers

AMENDMENT: _____

Moved By _____ Seconded By _____

AMENDMENT: _____

Moved BY _____ Seconded By _____

| VOTE: | MOTION | | AMEND | | AMEND | |
|------------|----------|-------|-------|-------|-------|-------|
| | Yes | No | Yes | No | Yes | No |
| Robinson | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Harmon | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Demers | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Hickey | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Moody | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Schofield | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Wittenberg | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Benkovich | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Getto | <u>X</u> | _____ | _____ | _____ | _____ | _____ |

ORIGINAL MOTION: Passed X Defeated Withdrawn

AMENDED & PASSED _____ AMENDED & DEFEATED _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

Attached to Minutes May 5, 1975

COMMERCE COMMITTEE
LEGISLATION ACTION

DATE May 5, 1975

SUBJECT AB 697 - Substantially revises condominium law.

MOTION:

Do Pass _____ Amend _____ Indefinitely Postpone X Reconsider _____

Moved By Mr. Wittenberg Seconded By Mr. Demers

AMENDMENT:

Moved By _____ Seconded By _____

AMENDMENT:

Moved BY _____ Seconded By _____

| VOTE: | <u>MOTION</u> | | <u>AMEND</u> | | <u>AMEND</u> | |
|------------|---------------|-----------|--------------|-----------|--------------|-----------|
| | <u>Yes</u> | <u>No</u> | <u>Yes</u> | <u>No</u> | <u>Yes</u> | <u>No</u> |
| Robinson | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Harmon | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Demers | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Hickey | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Moody | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Schofield | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Wittenberg | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Benkovich | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Getto | <u>X</u> | _____ | _____ | _____ | _____ | _____ |

ORIGINAL MOTION: Passed X Defeated _____ Withdrawn _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

Attached to Minutes May 5, 1975

COMMERCE COMMITTEE
LEGISLATION ACTION

DATE May 5, 1975

SUBJECT AB 700 - Requires local governments to provide licensing and
regulating of farmers' markets.

MOTION:

Do Pass X Amend _____ Indefinitely Postpone _____ Reconsider _____

Moved By Mr. Wittenberg Seconded By Mr. Getto

AMENDMENT:

Moved By _____ Seconded By _____

AMENDMENT:

Moved BY _____ Seconded By _____

| VOTE: | MOTION | | AMEND | | AMEND | |
|------------|----------|-------|-------|-------|-------|-------|
| | Yes | No | Yes | No | Yes | No |
| Robinson | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Harmon | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Demers | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Hickey | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Moody | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Schofield | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Wittenberg | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Benkovich | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Getto | <u>X</u> | _____ | _____ | _____ | _____ | _____ |

ORIGINAL MOTION: Passed X Defeated _____ Withdrawn _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

Attached to Minutes May 5, 1975

COMMERCE COMMITTEE
LEGISLATION ACTION

DATE May 5, 1975

SUBJECT AB 704 - Authorizes county commissioners of any county to exempt certain parcels of land from subdivision law requirements.

MOTION:

Do Pass X Amend _____ Indefinitely Postpone _____ Reconsider _____

Moved By Mr. Harmon Seconded By Mr. Benkovich

AMENDMENT:

Moved By _____ Seconded By _____

AMENDMENT:

Moved BY _____ Seconded By _____

| VOTE: | MOTION | | AMEND | | AMEND | |
|------------|-------------------|-------|-------|-------|-------|-------|
| | Yes | No | Yes | No | Yes | No |
| Robinson | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Harmon | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Demers | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Hickey | <u>Not voting</u> | _____ | _____ | _____ | _____ | _____ |
| Moody | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Schofield | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Wittenberg | <u>Not voting</u> | _____ | _____ | _____ | _____ | _____ |
| Benkovich | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Getto | <u>X</u> | _____ | _____ | _____ | _____ | _____ |

ORIGINAL MOTION: Passed X Defeated _____ Withdrawn _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

Attached to Minutes May 5, 1975

58TH NEVADA LEGISLATURE

COMMERCE COMMITTEE
LEGISLATION ACTION

1271

DATE May 5, 1975

SUBJECT AB 708 - Places moratorium on enforcement of restrictive
air pollution and emission standards on public utilities.

MOTION: 1. Adopt amendments X 2. Do pass as amended X
Do Pass _____ Amend _____ Indefinitely Postpone _____ Reconsider _____

Moved By 1. Harmon 2. Hickey Seconded By 1. Demers 2. Harmon

AMENDMENT: _____

Moved By _____ Seconded By _____

AMENDMENT: _____

Moved BY _____ Seconded By _____

| VOTE: | MOTION | | AMEND | | AMEND | |
|------------|----------|----------|-------|-------|-------|-------|
| | Yes | No | Yes | No | Yes | No |
| Robinson | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Harmon | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Demers | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Hickey | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Moody | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Schofield | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Wittenberg | _____ | <u>X</u> | _____ | _____ | _____ | _____ |
| Benkovich | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Getto | <u>X</u> | _____ | _____ | _____ | _____ | _____ |

ORIGINAL MOTION: Passed X Defeated _____ Withdrawn _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

Attached to Minutes May 5, 1975

58TH NEVADA LEGISLATURE

COMMERCE COMMITTEE
LEGISLATION ACTION

1222

DATE May 5, 1975

SUBJECT AB 716 - Requires adoption of minimum insulation standards for all public and private buildings constructed in Nevada.

MOTION:

Do Pass X Amend _____ Indefinitely Postpone _____ Reconsider _____

Moved By Mr. Wittenberg Seconded By Mr. Hickey

AMENDMENT:

Moved By _____ Seconded By _____

AMENDMENT:

Moved BY _____ Seconded By _____

| VOTE: | MOTION | | AMEND | | AMEND | |
|------------|------------------------------------|----------|-------|-------|-------|-------|
| | Yes | No | Yes | No | Yes | No |
| Robinson | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Harmon | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Demers | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Hickey | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Moody | _____ | <u>X</u> | _____ | _____ | _____ | _____ |
| Schofield | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Wittenberg | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Benkovich | _____ | <u>X</u> | _____ | _____ | _____ | _____ |
| Getto | <u>Not present at time of vote</u> | | | | | |

ORIGINAL MOTION: Passed X Defeated _____ Withdrawn _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

Attached to Minutes May 5, 1975

DATE May 5, 1975

SUBJECT AB 729 - Permits private insurance carriers to write workmen's compensation insurance.

MOTION:

Do Pass _____ Amend _____ Indefinitely Postpone X Reconsider _____

Moved By Mr. Wittenberg Seconded By Mr. Demers

AMENDMENT:

Moved By _____ Seconded By _____

AMENDMENT:

Moved BY _____ Seconded By _____

| VOTE: | MOTION | | AMEND | | AMEND | |
|------------|------------------------------------|-------|-------|-------|-------|-------|
| | Yes | No | Yes | No | Yes | No |
| Robinson | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Harmon | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Demers | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Hickey | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Moody | <u>Not present at time of vote</u> | | _____ | _____ | _____ | _____ |
| Schofield | <u>Not present at time of vote</u> | | _____ | _____ | _____ | _____ |
| Wittenberg | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Benkovich | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Getto | <u>Not present at time of vote</u> | | _____ | _____ | _____ | _____ |

ORIGINAL MOTION: Passed X Defeated _____ Withdrawn _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

Attached to Minutes May 5, 1975

DATE May 5, 1975

SUBJECT AB 754 - Substantially revises law relating to condominiums
and cooperatives.

MOTION:

Do Pass X Amend _____ Indefinitely Postpone _____ Reconsider _____

Moved By Mr. Harmon Seconded By Mr. Schofield

AMENDMENT:

Moved By _____ Seconded By _____

AMENDMENT:

Moved BY _____ Seconded By _____

| VOTE: | <u>MOTION</u> | | <u>AMEND</u> | | <u>AMEND</u> | |
|------------|---------------|-----------|--------------|-----------|--------------|-----------|
| | <u>Yes</u> | <u>No</u> | <u>Yes</u> | <u>No</u> | <u>Yes</u> | <u>No</u> |
| Robinson | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Harmon | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Demers | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Hickey | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Moody | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Schofield | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Wittenberg | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Benkovich | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Getto | <u>X</u> | _____ | _____ | _____ | _____ | _____ |

ORIGINAL MOTION: Passed X Defeated _____ Withdrawn _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

Attached to Minutes May 5, 1975

DATE May 5, 1975

SUBJECT SB 300 - Prohibits unauthorized motor vehicle repair and requires cost estimates and invoices of charges.

MOTION:

Do Pass X Amend _____ Indefinitely Postpone _____ Reconsider _____

Moved By Mr. Demers Seconded By Mr. Wittenberg

AMENDMENT:

Moved By _____ Seconded By _____

AMENDMENT:

Moved BY _____ Seconded By _____

| VOTE: | MOTION | | AMEND | | AMEND | |
|------------|------------------------------------|-------|-------|-------|-------|-------|
| | Yes | No | Yes | No | Yes | No |
| Robinson | <u>Not voting</u> | _____ | _____ | _____ | _____ | _____ |
| Harmon | <u>Not voting</u> | _____ | _____ | _____ | _____ | _____ |
| Demers | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Hickey | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Moody | <u>Not voting</u> | _____ | _____ | _____ | _____ | _____ |
| Schofield | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Wittenberg | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Benkovich | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Getto | <u>Not present at time of vote</u> | | _____ | _____ | _____ | _____ |

ORIGINAL MOTION: Passed X Defeated _____ Withdrawn _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

Attached to Minutes May 5, 1975

58TH NEVADA LEGISLATURE

COMMERCE COMMITTEE
LEGISLATION ACTION

1226

DATE May 5, 1975

SUBJECT SB 515 - Changes funeral director and embalmer licensing
qualifications and increases licensing fees.

MOTION:

Do Pass X Amend _____ Indefinitely Postpone _____ Reconsider _____

Moved By Mr. Schofield Seconded By Mr. Benkovich

AMENDMENT:

Moved By _____ Seconded By _____

AMENDMENT:

Moved BY _____ Seconded By _____

| VOTE: | MOTION | | AMEND | | AMEND | |
|------------|-------------------|----------|-------|-------|-------|-------|
| | Yes | No | Yes | No | Yes | No |
| Robinson | <u>x</u> | _____ | _____ | _____ | _____ | _____ |
| Harmon | <u>x</u> | _____ | _____ | _____ | _____ | _____ |
| Demers | <u>x</u> | _____ | _____ | _____ | _____ | _____ |
| Hickey | <u>Not voting</u> | _____ | _____ | _____ | _____ | _____ |
| Moody | <u>Not voting</u> | _____ | _____ | _____ | _____ | _____ |
| Schofield | <u>x</u> | _____ | _____ | _____ | _____ | _____ |
| Wittenberg | _____ | <u>x</u> | _____ | _____ | _____ | _____ |
| Benkovich | <u>x</u> | _____ | _____ | _____ | _____ | _____ |
| Getto | <u>x</u> | _____ | _____ | _____ | _____ | _____ |

ORIGINAL MOTION: Passed X Defeated _____ Withdrawn _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

Attached to Minutes May 5, 1975

DATE May 5, 1975

SUBJECT SB 587 - Permits accelerated payments in certain instances to
contractors performing highway improvement or construction.

MOTION:

Do Pass X Amend _____ Indefinitely Postpone _____ Reconsider _____

Moved By Mr. Wittenberg Seconded By Mr. Demers

AMENDMENT:

Moved By _____ Seconded By _____

AMENDMENT:

Moved BY _____ Seconded By _____

| VOTE: | <u>MOTION</u> | | <u>AMEND</u> | | <u>AMEND</u> | |
|------------|------------------------------------|-----------|--------------|-----------|--------------|-----------|
| | <u>Yes</u> | <u>No</u> | <u>Yes</u> | <u>No</u> | <u>Yes</u> | <u>No</u> |
| Robinson | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Harmon | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Demers | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Hickey | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Moody | <u>Not present at time of vote</u> | | _____ | _____ | _____ | _____ |
| Schofield | <u>Not present at time of vote</u> | | _____ | _____ | _____ | _____ |
| Wittenberg | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Benkovich | <u>X</u> | _____ | _____ | _____ | _____ | _____ |
| Getto | <u>Not present at time of vote</u> | | _____ | _____ | _____ | _____ |

ORIGINAL MOTION: Passed X Defeated _____ Withdrawn _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

Attached to Minutes May 5, 1975

GUEST REGISTER

COMMERCE COMMITTEE

1228

DATE: 5/5

PLEASE
CHECK IF YOU
WISH TO SPEAK

| NAME | REPRESENTING | |
|-------------------|---|--------------|
| Rusty Nash | Washoe County District Attorney | SB 300 |
| Bill Shewan | Nev. Highway Dept. | SB-587 |
| W.S. MENELEY | NEV. IND. INS. AGTS | AB-729 |
| JOE LAWLER | CONS. AFF. DIV. | SB-300 ✓ |
| RAY TREASE | - - - | |
| Shirley KATT | WASHOE Co. D. A. | S.B. 300 ✓ |
| JOHN REISER | NIC | AB 729 ✓ |
| L. Kelly | New State Auto Co. 10 | - ✓ |
| Robert F. Quinn | Nev. Franchised Auto Assoc | SB 300 |
| G. HOLBROOK HAWES | NEV. STATE AFL-CIO | AB 729 |
| DON F. Hellwink | Pres. New F Dir Assoc C.O.D. Garage MINDEN | SB 300 ✓ |
| DARYL E. CAPURRO | NEVADA FRANCHISED AUTO DEALERS ASSN. | SB 300 |
| JOHN C. HOPE | NFADA SCOTT MOTOR Co. | SB 300 ✓ |
| Richard L. Garrod | Farmers Group - | 729 |
| Claude Evans | N.T.C. | 729 |
| Bob McCoy | The Hubbers Co | 729 possible |
| Gene Milligan | Nevada Auto Dealers | AB 754 |

JACK SCHOFIELD
SENATOR

1308 SO. 8TH STREET
LAS VEGAS, NEVADA 89104
(702) 384-3334

401 SO. CARSON STREET
CARSON CITY, NEVADA 89701
(702) 885-5627



1229

of J. Schofield
COMMITTEES
VICE CHAIRMAN
EDUCATION
MEMBER
GOVERNMENT AFFAIRS
HEALTH AND WELFARE
TRANSPORTATION

Nevada Legislature

FIFTY-EIGHTH SESSION

1 May 1975

Assemblyman Schofield:

The following is a rational for S. B. 515 as explained by Senator Schofield. This rational passes with his approval.

The thrust of S. B. 515 is to reduce requirements to become an apprentice embalmer as 1) Nevada statutes are currently so difficult as to discourage young embalmers from obtaining work in this state, 2) to make it easier for funeral home directors to obtain new personnel, and 3) to update requirements and fees such that they conform to current economic conditions.

Specific changes are as outlined below:

Page 1, Lines 5, 16, 17, 18: Self-explanatory

Page 2, Line 10; Page 4, Line 23; Page 4, Line 27: Reduce age requirements such that they are consistent with the age of majority.

Page 2, Lines 12-16; Page 2, Line 17: Thrust to obtain young embalmers as state requirements are too stringent.

Page 2, Lines 33-38: Reduce written requirements as this States' test is a mere duplication of the national test.

Page 2, Line 49: Technical amendment.

Page 3, Lines 35-37: To update and clarify requirements to become an apprentice embalmer.

Changes in fees merely to update given current economic considerations.

For any further explanation, please contact Senator Schofield.

Thank you.

Sincerely,

J. Stefan Gonzalez
Intern, Senator Schofield

Example of retent held by State
on Highway Construction Projects

SB587

5/5

4-22-75

1230

Hypothetical Case

\$6,000,000 - Project

\$ 500,000 - Worth of work completed each month for 12 months.

| | <u>% Work Complete</u> | <u>% Work Remaining</u> | <u>\$ Amount Remaining</u> | <u>Retent held (Present Method)</u> | <u>Retent held (Proposed Bill)</u> |
|---|------------------------|-------------------------|----------------------------|-------------------------------------|------------------------------------|
| 1st Month | 8.3 | 91.7 | 5,500,000 | 50,000 | 50,000 |
| 2nd Month | 16.7 | 83.3 | 5,000,000 | 100,000 | 100,000 |
| 3rd Month | 25.0 | 75.0 | 4,500,000 | 150,000 | 150,000 |
| 4th Month | 33.3 | 66.7 | 4,000,000 | 200,000 | 200,000 |
| 5th Month | 41.7 | 58.3 | 3,500,000 | 250,000 | 250,000 |
| 6th Month | 50.0 | 50.0 | 3,000,000 | 300,000 | 300,000 |
| 7th Month | 58.3 | 41.7 | 2,500,000 | 300,000 | 300,000 |
| 8th Month | 66.7 | 33.3 | 2,000,000 | 300,000 | 300,000 |
| 9th Month | 75.0 | 25.0 | 1,500,000 | 300,000 | 75,000* |
| (Winter shutdown 4 or 5 month duration) | | | | | |
| 10th Month | 83.3 | 16.7 | 1,000,000 | 300,000 | 75,000 |
| 11th Month | 91.7 | 8.3 | 500,000 | 300,000 | 75,000 |
| 12th Month | 100.0 | 0 | 0 | 300,000 | 75,000 |

(It normally takes 30-60 days to clear project after work is completed, retent is withheld during this period.)

*In the example above, if the contractor so requested at the end of nine months, retent could be reduced to \$75,000 or 5% of monetary amount of work remaining under new proposal.

Under our present method retent would remain at \$300,000 or 5% of the original contract amount.

- F.H.W.A. now approves proposed method -

F. BRITTON McCONNELL
ATTORNEY AT LAW

Carson City, Nevada
August 14, 1972.

BEFORE THE

LEGISLATIVE COMMISSION'S SUBCOMMITTEE
FOR STUDY OF THE NEVADA INDUSTRIAL COMMISSION

Statement of F. Britton McConnell*

My name is F. Britton McConnell and I am and have been an attorney-at-law since admitted to practice in California and Federal Courts in 1925. At present, I am in private practice in Los Angeles.

At the request of insurance clients, I attended a meeting of the Nevada Commerce Committee in Las Vegas on February 26, 1971, and conferred informally with the members of that Committee and with some of the witnesses regarding the Nevada workmen's compensation system and functioning of the Nevada Industrial Commission; I also discussed these matters with representatives of private insurance companies and insurance agents in Reno who transact substantial business in other lines than workmen's compensation.

In the proceedings of the Commerce Committee, the NIC was only one of a number of important subjects assigned to that Committee. The Commerce Committee concluded that a more thorough study of NIC should be undertaken by another Committee assigned to survey the past and current affairs and financial condition of NIC. Your present Subcommittee was therefore established and after

informal consultations and commencing on August 4, 1971, I was employed as a special consultant with respect to the administrative structure of NIC and related matters. Since attending the meeting on August 4, 1971, I have attended meetings of your Committee in Carson City, in Reno and in Las Vegas, have read the exhibits that have been filed and have conferred extensively with Peat, Marwick Mitchell & Company during the course of their study of NIC and preparation of their report filed with your Committee in February 1972.

* A concise biography of experience in workmen's compensation insurance is attached--Exhibit 1.

I am appearing before you to-day to make a report to you and to make myself available for discussion of matters that have been brought before your Committee in the course of your extensive proceedings. I feel that your Committee has functioned with exceptionally good efficiency because of strong executive planning and also because of having established and maintained good relations with and resulting full co-operation from the organizations, agencies and individuals who have furnished the testimony and prepared the exhibits.

Senator Carl F. Dodge, your Chairman, and the other members of your Committee have kept in the forefront explicitly and throughout your proceedings, that the Nevada Industrial Insurance Act, the Nevada Occupational Diseases Act and the Industrial Safety Act were enacted and exist for the benefit and safety of employees.

The Nevada System of Workmen's Compensation Laws.

Nevada was one of the first states to enact workmen's compensation laws. Since original enactment in 1913, your Legislature has studied the system and adopted amendments where

shown by legislative hearings and debates to be appropriate. This is a proper and orderly system of procedure and it is worth remembering and preserving in order to avoid political devices whereby some State Legislatures have been bypassed through "Governors' Commissions" and similarly Congress has been bypassed in like manner through "Presidents' Commissions."

Following is the legislative history of the Nevada workmen's compensation system.

The Nevada Industrial Insurance Act was passed in 1913 (NCL 616). The Act has been amended by the Legislature in 1915, 1917, 1919, 1921, 1923, 1925, 1927, 1931, 1935, 1937, 1939, 1941, 1943, 1945, 1947, 1949, 1951, 1953, 1955, 1957, 1959, 1961, 1963, 1965, 1966, 1967, 1969 and 1971.

The Nevada Occupational Diseases Act was passed in 1947 (NCL 617). Amendments were passed in 1949, 1951, 1953, 1955, 1957, 1959, 1961, 1963, 1965, 1966, 1967, 1969 and 1971.

The Industrial Safety Act was passed by the 1955 Legislature (NCL 618). It has been amended in 1967 and 1971.

The above legislative history covers a span of 58 years. At 29 of its Sessions, your Legislature adopted amendments and those actions, of necessity, took into account, among other relevant matters, the population and the economic conditions of their times. The following facts as to the population and distribution of the population must be causally related to this legislative history.

The population of Nevada as shown by census data:

| | |
|--------|----------|
| 1910 - | 81,875 |
| 1920 - | 77,407 |
| 1930 - | 91,058 |
| 1940 - | 110,247 |
| 1950 - | 160,083 |
| 1960 - | 285,278 |
| 1970 - | 488,738. |

The population of Washoe and Clark County:

| | <u>Washoe</u> | <u>Clark</u> |
|------|---------------|--------------|
| 1910 | 17,434 | 3,321 |
| 1920 | 18,627 | 4,859 |
| 1930 | 27,158 | 8,532 |
| 1940 | 32,476 | 16,414 |
| 1950 | 50,205 | 48,289 |
| 1960 | 84,743 | 127,016 |
| 1970 | 121,068 | 273,288 |

It is estimated that at this time, 1971-1972, Nevada has a total of approximately 240,000 employees in all occupations of which number 200,000 are covered under the workmen's compensation law. Employees of the State of Nevada and political subdivisions are covered.

In recent years, NIC has not been in compliance with basic principles of insurance. These principles and the substance of the Nevada Statutes are summarized as follows in the report of Peat, Marwick, Mitchell & Co. filed with your Committee in February, 1972:

"The Nevada Industrial Commission, like all insurers, operates not on a pay-as-you-go system, but on the basis of charging to a year for which premiums are paid the ultimate and total costs of all accidents occurring in that year. Thus, for most claimants, the benefits provided by law can be effectively guaranteed only if the Commission sets aside from premiums each year the amounts needed to pay the costs which will accrue in the future for accidents of that year. The amounts so set aside are very real liabilities of the Commission. To the extent the amounts set up are insufficient, current accident victims could suffer the loss of future benefits to

which they are entitled by law. The significance of this liability is recognized in other jurisdictions where State regulators of commercial insurers manifest constant concern over the adequacy of the amounts set up."

A recent test of claim reserves set up as of June 30, 1968, and reappraised as of June 30, 1971, showed a deficiency of \$4,696,000.

At this point, a concise statement of customary and, in fact, necessary administrative procedures of workmen's compensation will be of interest. When a claim is first recorded, a reserve must be set up as a liability, generally called "incurred but not paid." The amount of the reserve is the total amount estimated to be required to fully pay the claim regardless of whether the times and amounts of payment terminate within a short period or extend over a period of many years. In insurance accounting, the amount of the reserve includes the amounts paid on the claim. Inevitably, the first reserve established is not the precise amount required. Claim files must be reviewed systematically and frequently so that the reserve can be adjusted as the facts as to disability, medical expense, and death are taken into account. The individual reserves are thus required to be increased or decreased but each should be redundant, that is, a little more than is considered safely adequate and so that as claims are closed, there will not be a drain upon surplus but rather a planned, reasonable increase of surplus. Such an increase is required on good actuarial principles to maintain a proper relation between annual premium volume and surplus. The closing of a claim with what is presumably a final adjustment of the reserve to the actual final cost is an important administrative decision that requires skill and experience. At June 30, 1972, NIC had 12,318 open claims.

The following tabulation shows for the years 1960 - 1972 the numbers of insured employers, total premiums and changes of surplus in the operation of NIC:

| | <u>Number of Employer Accounts</u> | <u>Premium</u> | <u>Surplus</u> |
|------|--|----------------|----------------|
| 1960 | 8,015 | 5,653,631 | 6,074,926 |
| 1961 | | 6,301,659 | 6,811,543 |
| 1962 | 9,016 | 6,960,125 | 6,871,191 |
| 1963 | 9,936 | 8,614,832 | 7,608,463 |
| 1964 | 10,819 | 9,212,803 | 8,514,852 |
| 1965 | 11,316 | 9,422,673 | 9,952,128 |
| 1966 | 11,615 | 9,039,804 | 10,837,136 |
| 1967 | 11,547 | 8,910,113 | 8,886,201 |
| 1968 | 11,869 | 10,081,858 | 9,241,736 |
| 1969 | 12,430 | 11,829,519 | 7,084,817 |
| 1970 | 12,923 | 14,049,509 | 6,239,125 |
| 1971 | 13,223 | 16,889,310 | 1,606,067 |

It will be noted that there were slight decreases of surplus in 1963 and in 1967 with small but not very significant decreases in 1969 and 1970. A dramatic loss of surplus occurred in 1971 and this drain of surplus may have continued into 1972.

Claim Volume - Medical Facilities:

As shown above, the population of Nevada tripled in the past two decades and is now more than 540,000. The number of workmen's compensation claims also tripled. In 1952, NIC recorded 10,699 claim files; in 1962, the number had increased to 19,057; and the estimate for 1972 is 29,382.

Almost half of workmen's compensation claims involve only medical expense. This is true in Nevada and in other jurisdictions. The report of PMNS&Co shows that NIC has or is in the course of installing good systems and plans for levels of administration and of responsibility and authority in the personnel of NIC according to the nature and potentials of change in the course of the history of individual claim cases.

An essential of an efficient workmen's compensation system is prompt and first-class medical treatment for injured employees. Your Committee has received testimony and exhibits covering that subject and it has been shown that there is good communication and a spirit of co-operation between NIC and the medical associations. A report furnished by Mr. Nelson B. Neff, Executive Secretary of the Nevada State Medical Association, dated July 27, 1972, supplies the following summary as to present numbers and places of practice of physicians:

"On July 5, 1955 Nevada had a total of 227 physicians licensed and practicing in Nevada. As of July 1, 1972 there were 582 doctors licensed in Nevada and in practice in the state. This supplies some indication of the growth of medical practitioners in the state, which has been accelerated as the population has grown. There were 81 doctors licensed between September 7, 1971 and June 10, 1972.

"With reference to the physician population, Clark and Washoe Counties, Clark County has 5 physicians in service in Boulder City, 12 in Henderson, 240 in Las Vegas and 10 in North Las Vegas, for a total as of August 1, 1971, according to the listing of the Nevada State Board of Medical Examiners, of 267.

"Washoe County as of the same date had 3 physicians in practice in Incline Village, 210 in Reno and 12 in Sparks for a total of 225. Both counts, for Washoe County and for Clark County, include specialists of every branch of medicine.

"Taking the 1970 census figure of 489,000 persons living in Nevada, and adding conservatively 51,000 growth factor since the 1970 census, you get an estimated state population of 540,000, and dividing this figure by the 582 doctors who practice in Nevada as of this date we get a rough average of 940 persons per physician."

Your Nevada State Division of Health has furnished a list of licensed hospitals as of March 1972 showing their locations, ownership, size and facilities. The total in the State is 24.

The distribution of physicians and of hospitals is a natural process that is governed by need and this can be discerned from the above population statistics and from consideration of the locations of the operations of the large employers. NIC states that the twelve largest employers employ approximately 18.5% of all employees covered by workmen's compensation in Nevada.

General Discussion:

Under this heading, I will only briefly discuss a number of subjects which are under consideration and which will require decisions either of action in the 1973 Session of your Legislature or decisions to postpone and perhaps schedule for further study. I anticipate that it may be appropriate for me to file a supplement to the report I am submitting to you to-day and this will be governed by our discussions. I previously mentioned the facts which showed that NIC had departed from basic principles of insurance in recent years and I discussed one of the causes which apparently was inadequate review and revisions to assure maintenance of adequate claim reserves. There was another important departure from basic principles of insurance and this arose from one or more acts of the Legislature which increased disability benefits retroactively. This put your workmen's compensation system into the political arena and if the precedent is continued, the pretense that NIC is an insurance operation will have to be abandoned because there will be no standards but only political pressures. The history of social security is sufficient to illustrate this point. If additional payments are to be made to workmen's compensation claimants to supplement the benefits payable because of the rate of compensation payable under the Statute at the time of injury, this should be done as a welfare action by the State and its taxpayers and explicitly so identified because the funds come from the general funds supplied by all taxpayers and not from premiums paid

by employers. Facing the difficult and almost unique situation, the report of PPM&Co recommended that for a period of future years, the rates be increased enough to repair the dangerous invasion of NIC's surplus. This is contrary to all principles of insurance and actuarial science. Rates must be adequate to pay the claims that arise during the period of their use and must be adjusted upward or downward by actuarial treatment of statistics. Whether adjustments are politically wise should never be a consideration.

Nevada premium and loss statistics are not of sufficient volume, considered alone, to meet actuarial standards of credibility for rate-making. For this reason, Nevada must continue its reliance upon statistics accumulated in other jurisdictions and applied by analogy to Nevada conditions. The essential and unchangeable standard for insurance rates is and must continue to be that they shall not be excessive nor inadequate nor unfairly discriminatory and subject to experience rating plans with debits and credits to encourage safety activities and capital expenditures for safety installations by employers.

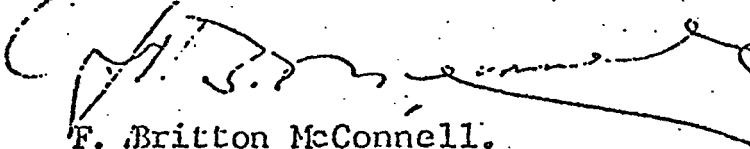
Your Committee heard many witnesses on the subject of whether or not NIC should continue as a state monopoly. Understandably, the staff of NIC produced testimony and exhibits in defense of their past activities and present status. The witnesses in favor of relaxing the monopoly and allowing private insurance and self-insurance by large employers who would post security bonds, presented valuable testimony but on the whole, not as comprehensive and persuasive as would, in my opinion, be required to justify a recommendation that the present monopoly be terminated. I think a period of several years will have to elapse before there can exist the essential conditions that would justify such a basic change in the historically necessary and now existing state monopoly. If private insurance and self-insurance were to be authorized by legislation, there would have to be a whole new complex of Statutes. Rates would have to be regulated; policyholder dividends would also have to be regulated; the Anti-Rebate Statutes would have to be revised and amended; a system of test audits would

have to be instituted through the office of the Insurance Commissioner and the Insurance Commissioner would have to develop a staff of experienced examiners in workmen's compensation and a whole new set of periodical verified reports and Manual governing examinations to assure protection of the public interest.

It may be significant that although witnesses favored private insurance and a right to self-insurance, no insurer or association of insurers or agents came forward with specific proposals. As a statutory monopoly, NIC is in constant danger of drifting into the inefficiencies inherent in monopoly and which are guarded against and corrected by competition. Unquestionably, competition is the greatest regulator as to prices and services and the best protection of the public interest. Lacking it, I think that the Nevada Legislature should continue its excellent practice of consideration of its workmen's compensation system by one or more of its Committees at every Session.

I have enjoyed the personal associations which have developed in the course of this employment by your Committee. To make sure that my critical comments will not be misinterpreted I will repeat my assurances of esteem for all of the people in NI and the Members of your Subcommittee and the witnesses I have met and heard.

Respectfully submitted.



F. Britton McConnell.

August 14, 1972

EXHIBIT 1

BIOGRAPHY
 OF F. BRITTON McCONNELL'S
EXPERIENCE IN WORKMEN'S COMPENSATION INSURANCE

- 1914 - 1925 Employed by California State Compensation Insurance Fund (interrupted by service in U. S. Army 1917-1919). This employment included office, field and branch office experience in every phase of workmen's compensation insurance administration and at conclusion Assistant Secretary, resigned to enter practice of law.
- 1925 - 1940 In private practice, principally trial work of thousands of state and federal workmen's compensation cases and hundreds of trials of other kinds of cases, and close association with executives of numerous workmen's compensation insurers.
- 1940 - 1955 General Counsel, Pacific Employers Insurance Group.
- 1947 - 1952 Member of Insurance Committee as City Councilman and a period as Mayor of the City of Beverly Hills.
- 1955 - 1963 Insurance Commissioner of California including personal participation and supervision of the administration of workmen's compensation laws and administrative procedures, including participation in functions of California Inspection Rating Bureau.
- 1963 - Present In private practice in Los Angeles and San Francisco dealing principally with casualty insurance carrier executive matters.

Chapter 16

Administrative Costs

The administrative costs of workmen's compensation include the expenses and profits of private insurers and State funds, the cost of administering self-insurance plans, industrial commission expenses, and other charges to the public for administering workmen's compensation laws. In essence, they cover all expenses of the program except payments for cash benefits and medical and rehabilitation services. The relative magnitude of these costs provides one measure of the efficiency of the workmen's compensation system.

PRIVATE INSURER EXPENSES AND PROFITS

Because private insurers write more than 80 percent of the workmen's compensation premiums, their administrative costs are proportionally important. An additional reason for investigating their expenses and profits is that the role of private insurers in a social insurance program is chronically open to challenge.

Premium Components

Private workmen's compensation premiums must provide for benefits, expenses, and a margin for profit or contingencies.

Services provided by expense and margin components.—The conventional listing of the expense and margin components is:

- (1) Acquisition and field supervision expenses (sales);
- (2) Inspection and bureau expenses;
- (3) Claim adjustment expenses;
- (4) General administration and payroll audit expenses;
- (5) Taxes, licenses, and fees; and
- (6) Profit and contingencies.

Acquisition and field supervision expenses include: commissions to agents and brokers, salaries for sales representatives and sales managers, advertising costs, and other expenses incurred in acquiring business.

Safety programs and membership in or subscribership to the services of rating bureaus and other boards and associations are supported by the second expense component.

The third produces the salaries for staff claims adjusters, fees to independent adjusters, and other monies needed to adjust claims.

The general administration and payroll audit component provides for the payroll audits needed to determine the employer's final payroll for the year (and hence his premium) and for all the other expenses incurred by the insurer in connection with the issuance and servicing of the insurance.

States premium taxes and fees are the fifth component.

Federal income taxes are paid out of profits and a contingency fund. This component also provides a margin for dividends and reserves against unusual charges for benefits (losses) in excess of the volume anticipated by premiums. The actual profit or margin for dividends depends upon how actual losses and expenses compare with the loss and expense allowance in the premium.

Some expenses are incurred to provide direct benefits to insured employers. Expenditures by insurers can be presented from this point of view.³

Administrative expenses of direct benefits to insured employers:

- Claims adjustment expenses (to the extent they represent service to employers);
- Safety program expenses;
- Expenses incurred in analyzing the employ-

er's exposure, advising how it should be handled, and arranging for the proper insurance protection; and

Portion of margin returned to employers as dividends.

General administration expenses.

Pure selling expenses.

Profit and contingencies allowance:

Distributed to others than the insured;

Retained as surplus.

Adjustment of claims, to the extent that they represent determinations that the employer himself would handle otherwise, are for his benefit; to the extent that they are incurred to protect the insurer, they are administrative expenses of the insured. Expenses for safety programs are, in the long run, almost exclusively for the benefit of insured employers and protection of employees, though insurers may benefit to the extent that losses are prevented or reduced without a compensating reduction in rates. If the employer did not purchase insurance, he would either have to pay for other safety services or forego their benefits. Although expenses incurred for risk analysis and insurance advice result in direct benefits to the insured, the need for such advice arises out of the decision to buy insurance. Policyholder dividends are a clear benefit to insured employers. The items not of direct benefit to the insured plus the investment earnings of the insurer attributable to workmen's compensation premiums, are regarded by some observers as the true net costs of administering workmen's compensation insurance.²

Expense and margin allowances in premiums.—In establishing the premiums paid by employers paying less than \$1,000 annually, the National Council on Compensation Insurance generally assumes that insurers need about 39 percent of the premium to meet their expenses and provide a 2½ percent profit and contingencies allowance.

The percentage for each expense component in a fairly typical State, Minnesota, is as follows:

| | Percent |
|---|-------------|
| Acquisition and field supervision expense (sales) | 17.5 |
| General administration expense | 8.4 |
| Claims adjustment expense | 8.2 |
| Taxes | 2.7 |
| Profit and contingencies | 2.5 |
| Total | 39.3 |

For employers paying less than \$500 annually, an expense constant, a loss constant, or both is added to the premium in most States. The expense constant is usually \$15 for premiums up to \$200 and \$10 for higher premiums: in effect, 15 percent additional on a \$100 dollar premium; 2 percent on \$500.

Employers paying at least \$1,000 annually are rated under either the premium discount or retrospective rating plan described in the next chapter. Both of these plans reduce the expense and profit loading as a percentage of the premium because it costs relatively less to sell and administer insurance for large companies. Two sets of discounts are used for large firms: one set for stock insurers (or others electing the stock discounts) and the other for non-stock insurers (or others using the nonstock discounts). The nonstock discounts are lower because insurers electing this discount pay dividends which may reflect expense savings. On the portion of the premium in excess of \$100,000, for example, the expense and profit loadings for stock and nonstock insurers are as follows:

| | [In percent] | |
|--|----------------|-------------------|
| | Stock Insurers | Nonstock Insurers |
| Acquisition and field supervision expense..... | 6.0 | 18.0 |
| General administration expense..... | 4.6 | |
| Claim adjustment expense..... | 8.2 | 8.2 |
| Taxes..... | 2.2 | 4 |
| Profit and contingencies..... | 2.0 | 2.3 |
| Total..... | 23.0 | 30.9 |

Most of the difference reflects allowances for acquisition and field supervision and for general administration and payroll audit expenses.

Actual Expenses

The actual expenses incurred by insurers are less than the 39 percent expense loading minus the 2.5 percent profit and contingencies allowance. Table 16.1 shows for 1950 through 1970 the expenses incurred by nonparticipating stock insurers, participating stock insurers, and mutual insurers expressed as a percent of premiums earned.

In 1970 participating stock insurers had the highest expense ratio, about 30.9 percent. Participating stock insurers and mutual insurers both had substantially lower ratios: 25.2 percent for par stocks and 24.0 percent for mutuals. Nonparticipating insurers spent considerably more on

acquisition and field supervision expense than did the other two classes of workmen's compensation insurers.

For comparison with other social insurance programs at the close of this chapter, the ratio of these expenses to benefits paid was for nonparticipating stock insurers, 48.4 percent; for participating stock insurers, 41.4 percent; and for mutual insurers 38.1 percent.

Table 15.1.—LOSSES AND EXPENSES INCURRED AS A PERCENTAGE OF NET PREMIUMS EARNED, BY TYPE OF EXPENSE AND BY TYPE OF INSURER, 1950-70

| Year | Expenses | | | | | | | Statutory underwriting gain |
|---------------------------------|----------|-----------------|---------------------------|--|------------------------|---------------------------|-------|-----------------------------|
| | Losses | Loss adjustment | Commissions and brokerage | Other acquisition, field supervision, and collection expense | General administration | Taxes, licenses, and fees | Total | |
| Nonparticipating stock insurers | | | | | | | | |
| 1950..... | 61.4 | 10.3 | 13.5 | 3.9 | 9.4 | 3.8 | 40.9 | -2.3 |
| 1951..... | 65.5 | 9.6 | 12.9 | 3.8 | 8.9 | 3.9 | 39.1 | -5.6 |
| 1952..... | 64.1 | 8.8 | 12.4 | 3.6 | 8.3 | 3.8 | 36.9 | -1.0 |
| 1953..... | 60.6 | 9.1 | 12.2 | 3.4 | 8.1 | 3.7 | 35.5 | 2.9 |
| 1954..... | 56.4 | 8.8 | 12.3 | 3.3 | 8.5 | 3.5 | 36.4 | 7.2 |
| 1955..... | 59.9 | 8.7 | 12.5 | 3.3 | 8.5 | 3.5 | 35.5 | 3.6 |
| 1956..... | 60.2 | 9.0 | 12.6 | 3.4 | 8.4 | 3.4 | 35.8 | 3.0 |
| 1957..... | 62.1 | 9.0 | 12.4 | 3.2 | 8.2 | 3.8 | 35.6 | 1.3 |
| 1958..... | 63.5 | 9.0 | 12.2 | 3.2 | 8.4 | 3.4 | 35.2 | 0.3 |
| 1959..... | 65.9 | 9.2 | 12.1 | 3.1 | 8.3 | 3.7 | 35.4 | -2.3 |
| 1960..... | 64.9 | 9.4 | 12.2 | 3.2 | 8.5 | 3.6 | 35.9 | -1.8 |
| 1961..... | 65.9 | 9.2 | 11.9 | 3.3 | 8.4 | 3.6 | 35.4 | -2.3 |
| 1962..... | 63.0 | 9.2 | 11.9 | 3.3 | 8.4 | 3.6 | 35.4 | 0.6 |
| 1963..... | 63.6 | 9.0 | 11.9 | 3.2 | 8.2 | 3.8 | 35.1 | 0.3 |
| 1964..... | 63.4 | 8.7 | 11.8 | 3.0 | 7.7 | 3.8 | 35.0 | 1.6 |
| 1965..... | 64.0 | 8.9 | 11.6 | 2.9 | 7.5 | 3.7 | 34.6 | 1.4 |
| 1966..... | 64.3 | 8.7 | 11.4 | 2.6 | 6.9 | 3.6 | 33.2 | 2.5 |
| 1967..... | 63.7 | 8.6 | 11.1 | 2.6 | 6.9 | 3.7 | 32.9 | 3.4 |
| 1968..... | 63.2 | 8.2 | 10.4 | 2.3 | 6.8 | 3.7 | 21.4 | 5.4 |
| 1969..... | 64.1 | 8.5 | 10.2 | 2.3 | 6.7 | 3.7 | 31.4 | 4.5 |
| 1970..... | 63.9 | 8.5 | 9.8 | 2.2 | 6.6 | 3.8 | 30.9 | 5.2 |
| Participating stock insurers | | | | | | | | |
| 1950..... | 60.3 | 8.2 | 8.0 | 3.5 | 6.5 | 2.4 | 28.6 | 11.1 |
| 1951..... | 69.0 | 8.7 | 7.8 | 3.3 | 6.2 | 2.6 | 28.6 | 2.4 |
| 1952..... | 61.6 | 8.2 | 8.2 | 3.4 | 6.4 | 2.7 | 28.9 | 9.5 |
| 1953..... | 57.0 | 8.4 | 8.7 | 3.5 | 6.1 | 2.3 | 29.0 | 14.0 |
| 1954..... | 52.5 | 8.3 | 8.0 | 4.3 | 6.3 | 2.2 | 29.1 | 18.4 |
| 1955..... | 52.4 | 7.9 | 7.8 | 4.1 | 6.2 | 2.3 | 28.3 | 19.3 |
| 1956..... | 55.2 | 7.9 | 7.6 | 4.1 | 6.2 | 2.0 | 27.8 | 17.0 |
| 1957..... | 58.9 | 7.5 | 7.0 | 4.2 | 6.6 | 2.1 | 27.4 | 13.7 |
| 1958..... | 59.5 | 8.1 | 8.3 | 4.1 | 5.7 | 2.3 | 28.5 | 12.0 |
| 1959..... | 62.4 | 8.1 | 8.6 | 3.6 | 5.6 | 2.2 | 28.1 | 9.5 |
| 1960..... | 64.3 | 8.3 | 8.0 | 3.0 | 5.2 | 2.3 | 25.8 | 8.9 |
| 1961..... | 65.3 | 8.8 | 7.6 | 3.2 | 5.3 | 2.4 | 27.3 | 7.4 |
| 1962..... | 65.4 | 8.6 | 7.5 | 3.1 | 5.2 | 2.4 | 26.8 | 7.8 |
| 1963..... | 65.0 | 8.5 | 7.4 | 2.9 | 4.8 | 2.4 | 26.0 | 9.0 |
| 1964..... | 62.6 | 9.2 | 7.5 | 2.7 | 4.6 | 2.4 | 26.4 | 11.0 |
| 1965..... | 63.1 | 8.1 | 6.8 | 3.1 | 4.8 | 2.3 | 25.1 | 11.8 |
| 1966..... | 64.1 | 8.1 | 7.1 | 2.5 | 4.7 | 2.6 | 25.0 | 10.9 |
| 1967..... | 60.7 | 8.0 | 7.1 | 2.3 | 5.2 | 2.5 | 25.1 | 14.2 |
| 1968..... | 59.1 | 7.6 | 5.2 | 3.0 | 5.6 | 2.7 | 24.1 | 16.8 |
| 1969..... | 57.7 | 7.5 | 5.1 | 3.3 | 5.5 | 2.7 | 24.1 | 18.2 |
| 1970..... | 60.9 | 8.7 | 5.1 | 3.3 | 5.3 | 2.8 | 25.2 | 13.9 |

Table 16.1.—LOSSES AND EXPENSES INCURRED AS A PERCENTAGE OF NET PREMIUMS EARNED, BY TYPE OF EXPENSE AND BY TYPE OF INSURER, 1950-70—Continued

| Year | Losses | Expenses | | | | | | Statutory underwriting gain |
|-----------------|--------|-----------------|---------------------------|--|------------------------|---------------------------|-------|-----------------------------|
| | | Loss adjustment | Commissions and brokerage | Other acquisition, field supervision, and collection expense | General administration | Taxes, licenses, and fees | Total | |
| Mutual insurers | | | | | | | | |
| 1950..... | 61.9 | 8.0 | 2.2 | 5.2 | 6.5 | 3.1 | 25.0 | 13.1 |
| 1951..... | 62.2 | 7.9 | 2.2 | 4.7 | 6.4 | 3.2 | 24.4 | 13.4 |
| 1952..... | 62.3 | 7.6 | 2.1 | 4.6 | 6.1 | 3.2 | 23.6 | 14.1 |
| 1953..... | 59.8 | 8.0 | 2.1 | 4.5 | 6.0 | 3.2 | 23.8 | 16.4 |
| 1954..... | 55.4 | 7.6 | 2.1 | 4.9 | 6.7 | 2.9 | 24.2 | 20.4 |
| 1955..... | 57.2 | 7.7 | 2.1 | 5.4 | 7.0 | 2.8 | 25.0 | 17.8 |
| 1956..... | 58.3 | 8.1 | 2.2 | 5.1 | 7.1 | 2.8 | 25.3 | 16.4 |
| 1957..... | 57.4 | 8.0 | 2.3 | 5.3 | 7.0 | 3.1 | 25.7 | 16.9 |
| 1958..... | 62.0 | 8.7 | 2.4 | 5.3 | 7.4 | 3.1 | 26.9 | 11.1 |
| 1959..... | 63.8 | 8.4 | 2.3 | 5.1 | 7.0 | 3.3 | 26.1 | 10.1 |
| 1960..... | 63.0 | 8.3 | 2.4 | 5.0 | 6.9 | 3.0 | 25.6 | 11.4 |
| 1961..... | 62.9 | 8.5 | 2.3 | 5.1 | 7.1 | 2.8 | 25.8 | 11.3 |
| 1962..... | 61.4 | 8.7 | 2.3 | 5.1 | 6.9 | 3.0 | 26.9 | 12.6 |
| 1963..... | 65.1 | 8.8 | 2.4 | 5.3 | 7.2 | 3.3 | 27.0 | 7.9 |
| 1964..... | 63.0 | 9.1 | 2.3 | 5.2 | 7.0 | 3.4 | 27.0 | 10.0 |
| 1965..... | 61.4 | 8.9 | 2.2 | 5.2 | 6.8 | 3.5 | 26.6 | 12.0 |
| 1966..... | 61.5 | 8.5 | 2.3 | 4.9 | 6.3 | 3.5 | 25.5 | 13.0 |
| 1967..... | 64.3 | 8.5 | 2.3 | 4.9 | 6.1 | 3.6 | 25.4 | 10.3 |
| 1968..... | 60.7 | 8.0 | 2.3 | 4.7 | 6.2 | 3.6 | 24.8 | 14.5 |
| 1969..... | 61.6 | 8.2 | 2.2 | 4.6 | 5.9 | 3.9 | 24.8 | 13.6 |
| 1970..... | 63.1 | 8.1 | 1.9 | 4.5 | 5.9 | 3.6 | 24.0 | 12.9 |

Source: Insurance Expense Exhibits (Countrywide), compiled annually by the National Council on Compensation Insurance.

The expense ratios of all three classes of insurers were less in 1970 than in 1950. Nonparticipating stock insurers reduced their expenses by 10 percentage points, participating stock insurers by more than three points, and mutual insurers by one point. The difference between the nonparticipating stock insurer rate and the mutual insurer ratio declined from almost 15 percentage points in 1960 to less than seven points in 1970.

Nonparticipating stock insurers were able to reduce all of their expenses except taxes, licenses, and fees. Participating stock insurers reduced all expenses other than taxes, licenses, and fees and claims adjustment expenses.

Expense ratios, excluding claims adjustment expenses, for workmen's compensation insurance over the 10-year period 1961-70 are compared in table 16.2 with several other major lines underwritten by property and liability insurers. In only one line, group disability income insurance, was the expense ratio lower. Workmen's compensation claims adjustment expenses, between 8 and 9 percent of 1970 written premiums, were substantially

greater than the 1 to 2 percent ratio for group disability insurance but less than the 13 to 16 percent experienced in automobile bodily injury liability insurance. In comparing workmen's compensation insurance expense ratios with group disability insurance ratios, allowance should be made for the safety services rendered by workmen's compensation insurers, the relative difficulty of adjusting workmen's compensation claims, and the many small companies that purchase workmen's compensation insurance but not group disability insurance.

Table 16.2.—EXPENSES AS A PERCENTAGE OF PREMIUMS WRITTEN AND UNDERWRITING PROFIT AS A PERCENTAGE OF PREMIUMS EARNED, BY LINE OF INSURANCE, 1961-1970

| Line of insurance | Percentage of premiums written | | | Underwriting profit as a percentage of premiums earned |
|---|--------------------------------|--|--|--|
| | Commission and brokerage fees | Other underwriting expenses ¹ | Total underwriting expenses ¹ | |
| Stock insurers: | | | | |
| Workmen's compensation..... | 10.0 | 12.5 | 22.5 | 4.9 |
| Fire..... | 24.4 | 15.5 | 40.9 | -2 |
| Homeowners multiperil..... | 23.2 | 12.7 | 35.9 | -7.9 |
| Commercial multiperil..... | 13.9 | 17.2 | 31.1 | .4 |
| Automobile collision..... | 15.9 | 12.4 | 29.3 | -4 |
| Automobile bodily injury liability..... | 15.5 | 13.1 | 28.6 | -4.7 |
| Automobile property damage liability..... | 15.9 | 13.5 | 29.4 | -6.3 |
| Group disability insurance..... | 8.5 | 9.5 | 18.0 | -1 |
| All lines combined..... | 18.0 | 14.1 | 32.1 | -1.0 |
| Mutual insurers: | | | | |
| Workmen's compensation..... | 2.3 | 14.5 | 15.8 | 12.4 |
| Fire..... | 15.6 | 13.1 | 34.7 | 12.6 |
| Homeowners multiperil..... | 13.6 | 15.2 | 35.8 | -4.1 |
| Commercial multiperil..... | 13.8 | 21.2 | 35.0 | 6.2 |
| Automobile collision..... | 8.1 | 14.9 | 23.0 | 1.7 |
| Automobile bodily injury liability..... | 7.8 | 15.2 | 23.0 | -1.4 |
| Automobile property damage liability..... | 8.1 | 15.3 | 23.4 | -5.2 |
| Group disability insurance..... | 2.5 | 8.6 | 11.1 | .1 |
| All lines combined..... | 9.2 | 15.5 | 24.7 | 2.2 |

¹ Excludes loss adjustment expenses.

Source: "Best's Aggregates and Averages, 1971," pp. 133-142 and 203-211.

Workmen's compensation expense ratios vary among insurers also. Table 16.3 shows variations in total workmen's compensation underwriting expenses incurred in 1970, less claim adjustment expenses, expressed as a percentage of net premiums written among a sample of stock insurers and mutual insurers writing at least \$10 million in premiums each.

Although, the expense ratios may vary among States, it is usual to assume that they do not. The ratios would be expected to vary with the average premium size in the State, premium tax rates,

population density, and other factors. On the other hand, one study suggested that the difference between the countrywide ratio and the ratio for Minnesota was not significant.³

Profits and Losses

An insurer's total profit depends upon its underwriting gain or loss, its investment profit or loss, and, to a minor extent, other income. Its underwriting gain or loss is measured by how much premiums exceed benefit charges and expenses. Its investment profit includes net investment income (interest and dividends received less investment expenses) and capital gains, both realized and unrealized. Unrealized capital gains are included because insurers are required to record in their balance sheets common stocks at market value.

Underwriting gain or loss.—One measure of underwriting gain or loss is provided in table 16.1. The statutory underwriting profit of an insurer is determined by subtracting from its earned premiums its losses (benefits paid) and expenses. The earned premiums recognize that some of the premiums written in earlier years were for protection during the current year and that some of the premiums written during the current year were for protection in the future. The benefits and expense totals allow for amounts that will be paid in later years for accidents and services that occurred during the current year.

According to table 16.1, nonparticipating stock insurers had a statutory underwriting profit in all but 6 of the 21 years ending with 1970. In 10 of those years, the profit equaled or exceeded the 2.5 percent target. The last 5 years were all in this category.

Participating stock insurers and mutual insurers had a profit during each of the 21 years. Participating stock profits exceeding 10 percent in 14 of the 21 years, including the last 7. Mutual insurer profits exceeded 10 percent in all but 1 year. These insurers returned part of these profits to their policyholders as dividends. For example, based on a sampling of National Council files, Burton estimated that participating stock insurers paid 9.2 percent of net premiums earned as dividends in 1961-62. Mutual insurers paid 12.2 percent.⁴

Table 16.2 shows adjusted underwriting profits for the 1961-70 decade for stock and mutual insurers for each of the major lines of insurance writ-

ten by property and liability insurers. Adjusted underwriting profits are corrected for the fact that some expenses should be charged to the next year. Generally, when premium volume is rising, adjusted underwriting profit exceeds the statutory profit.

According to table 16.2, in the sixties stock insurer (participating and nonparticipating) adjusted underwriting profits were 4.9 percent; mutual insurer profits, 12.4 percent. Workmen's compensation insurance profits exceeded those in any other line.

For the 54 insurers whose 1970 expense ratios are shown in table 16.3, the adjusted profit ratios of 40 stock insurers ranged from -5.1 percent to 31.0 percent. The 14 mutual insurers range was 1.5 percent to 22.8 percent.

Table 16.3—DISTRIBUTION OF EXPENSE RATIOS AMONG 54 STOCK AND MUTUAL INSURERS WRITING AT LEAST \$10 MILLION IN PREMIUMS, 1970

| Percent of expense ratio ¹ | Stock insurers | | Mutual insurers | |
|---------------------------------------|----------------|---------|-----------------|---------|
| | Number | Percent | Number | Percent |
| 25.0 or more..... | 9 | 22 | 1 | 7 |
| 20.0 to 24.9..... | 20 | 50 | 6 | 43 |
| 15.0 to 19.9..... | 6 | 15 | 2 | 14 |
| 10.0 to 14.9..... | 3 | 8 | 4 | 29 |
| Less than 10.0..... | 2 | 5 | 1 | 7 |
| Total..... | 40 | 100 | 14 | 100 |

¹ Excludes loss adjustment expenses.

Source: Derived from "Best's Aggregates and Averages, 1971," pp. 122-124 and 197-193.

Incurred benefits relative to premiums earned differed also among the States, with some consequences for profits. In 1970, according to National Council data, among 44 jurisdictions without an exclusive State fund,⁵ the number of jurisdictions with loss (benefit) ratios departing from the national loss (benefit) ratio by more than 5 percentage points was as follows:

| | National loss (benefit) ratios, excluding effect of reinsurance | States with ratios at least | |
|--------------------------------------|---|-----------------------------|----------------|
| | | 5 points above | 5 points below |
| Nonparticipating stock insurers..... | .628 | 8 | 12 |
| Participating stock insurers..... | .610 | 22 | 7 |
| Mutual insurers..... | .637 | 11 | 16 |

A study conducted by Georgia State University for the Commission sheds further light on the 1961-70 profits of workmen's compensation insurers.⁶ These investigators analyzed the profits earned by 75 stock and mutual insurers,

each of whom wrote at least 0.333 percent of the national workmen's compensation insurance premiums paid private insurers. Together the insurers wrote about 76 percent of the national total (table 16.4). The average workmen's compensation insurance statutory underwriting profit, less policyholder dividends, for the sample insurers was 0.5 percent. The high profit year was 1968, the low profit year 1963. Workmen's compensation insurance underwriting profits were better than total underwriting profits in 8 of the 10 years.

Table 16.4.—STATUTORY UNDERWRITING PROFIT LESS DIVIDENDS AS A PERCENTAGE OF EARNED PREMIUMS FOR WORKMEN'S COMPENSATION INSURANCE AND FOR ALL LINES COMBINED, 1951-70

| Year | Workmen's compensation insurance | All lines combined |
|--------------|----------------------------------|--------------------|
| 1951..... | -1.7 | -0.1 |
| 1952..... | -.1 | .8 |
| 1953..... | -2.1 | -2.5 |
| 1954..... | .6 | -2.7 |
| 1955..... | .2 | -3.9 |
| 1956..... | .9 | -.2 |
| 1957..... | 1.0 | -1.8 |
| 1958..... | 3.7 | -3.4 |
| 1959..... | 1.8 | -4.1 |
| 1970..... | 1.0 | -2.7 |
| Average..... | .5 | -2.1 |

Source: The Center for Insurance Research, Georgia State University, "The Profitability of Workmen's Compensation Insurance," Apr. 15, 1972.

Adjusted underwriting profit for the decade, not shown in table 16.4, was 1 percent for workmen's compensation insurance, but all lines combined recorded a loss of 1.5 percent.

Adjusted loss ratios (losses incurred divided by earned premiums less dividends) for the sample insurers varied widely from State to State. The variation could not be explained by the type of agency administration, the level of benefits, the presence of competitive State funds, or market penetration by competitive State funds. Outside exclusive fund States, Arizona had the lowest ratio, .525; Delaware the highest, .783.

Total profit.—Georgia State University also provided estimates of the total after-tax profitability of workmen's compensation insurance compared with all lines combined. Table 16.5 shows an average total after-tax profit of 8 percent of earned premium for workmen's compensation insurance, 7.7 percent for all lines combined. Workmen's compensation profits were higher than profits for all lines in 5 of the 10 years.

Before-tax profits were 9.2 percent for workmen's compensation insurance, 8.3 percent for all lines combined. Of the workmen's compensation before-tax profit about 11 percent was adjusted underwriting profit, 66 percent net investment income, 9 percent realized capital gains, and 15 percent unrealized capital gains. For all lines combined, the respective percentages were: -17, 75, 16, and 27. The lesser dependence of workmen's compensation profits upon capital gains produced favorable earnings for that line.

Profits of other industries are commonly expressed as a percentage of net worth instead of sales. After-tax profits on net-worth for the 75 insurers are in table 16.5.

Table 16.5.—TOTAL AFTER-TAX PROFIT (LESS DIVIDENDS) FOR WORKMEN'S COMPENSATION INSURANCE AND FOR ALL LINES COMBINED, 1951-70

| Year | Percent of earned premiums | | Percent of net worth | |
|---------------|----------------------------|-----------|------------------------|-----------|
| | Workmen's compensation | All lines | Workmen's compensation | All lines |
| 1951..... | 12.1 | 17.7 | 18.3 | 20.4 |
| 1952..... | 1.6 | .9 | 1.8 | .9 |
| 1953..... | 9.5 | 11.9 | 9.2 | 12.7 |
| 1954..... | 10.5 | 10.6 | 9.8 | 13.8 |
| 1955..... | 8.8 | 7.2 | 7.7 | 7.3 |
| 1956..... | 5.8 | 8.0 | 6.0 | 8.8 |
| 1957..... | 10.2 | 10.5 | 12.1 | 13.4 |
| 1958..... | 11.7 | 8.8 | 13.9 | 11.1 |
| 1959..... | 2.4 | -2.1 | 2.6 | -2.9 |
| 1970..... | 7.4 | 4.2 | 11.3 | 7.2 |
| Average | 8.0 | 7.7 | 9.3 | 9.0 |

Source: Same as table 16.4.

Workmen's compensation total profits were only slightly higher than the total profits for all lines. The higher adjusted underwriting profits on workmen's compensation insurance were offset by lower investment income and, to an even greater extent, by higher income taxes.

The investigators "found no statistical evidence to indicate that after-tax profit from all sources for workmen's compensation insurance is significantly higher than profit on other lines of insurance."

Comparison with other industries.—In order to determine how the profits of insurers compared with the profits of other industries, the after-tax profits of the sample insurers were compared with the after-tax profits of other industries reported each April by the First National City Bank of New York.

Workmen's compensation insurance return on sales ranked tenth highest among 66 industries;

all insurance profits were eleventh highest. On net worth, however, among 62 industries, the workmen's compensation insurance profit was fourteenth lowest. All insurance profits on net worth were eleventh lowest.

The rate of return generally is expected to vary with the risk. The Georgia State University investigators found little relationship between average rates of return for the various industries and the risks implied by their standard deviations or variances. Nevertheless, they applied a regression line to the data. The rate of return indicated by this line for insurers exceeded their actual return.

The investigators were "not prepared to say that the present rate of return on workmen's compensation insurance is inadequate," but they "found no evidence to indicate that the insurance industry as a whole is earning excessive profits on workmen's compensation insurance."

STATE FUND EXPENSES

State funds, on average, have lower expense ratios than private insurers. During the past 20 years, State fund expenses, excluding loss adjustment expenses for certain competitive funds, have averaged about 9.1 percent of premiums written. Exclusive fund expense ratios were about 6.4 percent of premiums; competitive fund ratios about 11.5 percent.⁷

These expense ratios vary markedly. Over the five year period, 1962-66 and during 1970 the expense ratios were as follows:⁸

| | 1952-66 | 1970 |
|--------------------|---------|------|
| Exclusive funds: | | |
| Nevada..... | .12 | .11 |
| North Dakota..... | .09 | .08 |
| Ohio..... | .04 | .04 |
| Washington..... | .11 | .14 |
| West Virginia..... | .05 | .04 |
| Wyoming..... | .10 | .07 |
| Competitive funds: | | |
| Arizona..... | .12 | .14 |
| California..... | .14 | .09 |
| Colorado..... | .11 | .04 |
| Idaho..... | .05 | .20 |
| Maryland..... | .21 | NA |
| Michigan..... | .23 | .27 |
| Montana..... | .06 | .09 |
| New York..... | .31 | .15 |
| Oklahoma..... | .12 | .10 |
| Oregon..... | .11 | .10 |
| Pennsylvania..... | .35 | .03 |
| Utah..... | .03 | .03 |

NA—Not available.

The lower 1970 ratios for some of the competitive State funds can be explained in part by the exclusion of claim adjustment expenses in the 1970 data but not the 1962-66 data. Because of the lack of uniformity in reporting, State fund operations are difficult to analyze but even these admittedly imperfect ratios suggest low expenses and considerable variation among the States.

If all State funds operated as do most mutuals and competitive funds by charging a higher premium than necessary and returning a dividend, the average State fund expense ratios would be even less than 9.1 percent reported above.

State fund administrative expenses have averaged about 13 percent of benefits paid over the past two decades. Including an estimated allowance for loss (claim) adjustment expenses would raise the expense ratio to between 11 and 14 percent of premiums written and between 16 and 20 percent of benefits paid.

Average State fund expense ratios are less than average private insurer expense ratios first because exclusive funds have no appreciable selling or acquisition charges. Although competitive funds have no monopoly, few employ salesmen and those that do incur selling expenses less than private insurers. Second, State funds incur lower loss adjustment expenses because many provide limited or no local claim service and probably pay lower salaries. Third, most State funds are excused from State and local taxes. All are exempt from Federal taxes. Fourth, general administration costs are less because of lower salaries and, in many State funds, less is spent on safety programs.

Critics of State funds often claim that their expense ratios would be higher if they were not subsidized. Except for the exemption from certain taxes, however, only one fund admits an administrative subsidy by the State.

INSURED EMPLOYER COSTS

Purchasing insurance does not relieve employers of administrative costs entirely. Insured employers must keep records and file accident reports. Also they commonly supplement insurer safety programs at their own expense.

SELF-INSURER COSTS

Self-insurers should have the lowest administrative costs of all. They elect to self-insure in expec-

tation that they will incur fewer administrative expenses than in the insurance premium. Furthermore, they tend to be large employers benefiting from economies of scale. The actual expense ratio of self-insurers is unknown. Many self-insured employers do not keep records of their administrative expenses for workmen's compensation. Many do not recognize all the expenses (e.g., claims adjustment expenses) that they incur. The Social Security Administration estimates the administrative costs of workmen's compensation at from 5 to 10 percent of benefits paid by self-insured employers.

FEDERAL EMPLOYEES' COMPENSATION ACT

Under the Federal Employees' Compensation Act, financed through Congressional appropriations, the U.S. Government can be viewed as a self-insurer of its obligations under the Act with the same possibilities for saving expenses as private insurers. In fiscal 1971, total benefit payments were \$163,214,939. The administrative cost was \$5,279,558, only 3.2 percent of benefits. In fiscal 1967, benefits totalled \$89,145,528. Administrative costs were \$3,320,644 or 3.7 percent. In comparing this performance with that of other self-insurers, it is necessary to allow for economies of scale in the Federal program and the relatively high FECA benefits.

STATE ADMINISTRATIVE AGENCY COSTS

The administrative costs of workmen's compensation also include expenses incurred by industrial commissions and other State agencies supervising insurers and exercising adjudicative and enforcement powers. According to a National Commission survey of industrial commissions in late 1971, State agency administrative costs exceeded \$95 million or about 3 percent of 1970 compensation payments. These expenses do not include the small amounts spent by State insurance departments regulating the workmen's compensation business of private insurers or the costs of administering the program for Federal employees discussed above. They do include expenses incurred in some competitive fund States and all exclusive fund States in administering the State fund.

The extent and types of services provided by the various State agencies affect the cost of ad-

ministration. Services may be performed directly by the workmen's compensation agency or by other cooperating agencies, depending upon the individual State. Unrelated duties assigned to some State agencies such as the administration of the temporary disability benefits program in New York and the administration of the Tort Claims Act in North Carolina also are reflected in total costs.

The organizational structure of the State agencies makes it difficult to compare their administrative costs. As indicated in chapter 14, while most States have regulatory agencies, some are court-administered and others administer State insurance funds as well as the workmen's compensation law. State agencies using court administration do not have adjudicative duties. State fund jurisdictions supervise payment of claims in addition to their administrative regulatory functions.

Also differences in accounting and budget procedures hamper cost analysis. The degree of such variations among agencies discourages attempts at comparison concerning costs. It is possible, however, to show what States spend individually on the administration of workmen's compensation and to indicate the source of their funds (table 16.6). For the majority of State agencies, the accounting period for the budget presented is the fiscal year.

Table 16.6—WORKMEN'S COMPENSATION AGENCY ADMINISTRATIVE BUDGETS AND SOURCES OF FUNDS

| Jurisdiction | Total workmen's compensation administrative budget | | Source of funds | | |
|---------------------------|--|--------------------|------------------------|-------------|----------|
| | Amount received | Fiscal year ending | General appropriations | Assessments | Other |
| Alabama..... | \$75,000 | 10-31-72 | \$75,000 | | |
| Alaska..... | 155,900 | 6-30-72 | 155,900 | | |
| Arizona..... | 1,440,827 | 6-30-71 | 271,891 | \$1,105,778 | \$63,158 |
| Arkansas..... | 405,791 | 6-30-71 | | 626,253 | |
| California..... | 9,405,035 | 6-30-72 | 9,405,035 | | |
| Colorado..... | (*) | (*) | (*) | (*) | (*) |
| Connecticut..... | 491,314 | 6-30-71 | | 491,314 | |
| Delaware..... | 69,500 | 6-30-71 | 69,500 | 407,345 | |
| District of Columbia..... | (*) | (*) | (*) | (*) | (*) |
| Florida..... | 4,555,479 | 6-30-71 | 243,561 | 3,632,055 | 720,853 |
| Georgia..... | 771,090 | 6-30-71 | | 771,000 | |
| Guam..... | 27,373 | 6-30-71 | 27,373 | | |
| Hawaii..... | 475,761 | 6-30-72 | 475,761 | | |
| Idaho..... | 226,723 | 6-30-72 | | 226,723 | |
| Illinois..... | 1,635,560 | 6-30-72 | 1,635,500 | | |
| Indiana..... | 250,253 | 6-30-71 | 250,253 | | |
| Iowa..... | 135,820 | 6-30-71 | 135,820 | | |
| Kansas..... | 344,322 | 6-30-71 | 71,870 | 265,454 | |
| Kentucky..... | 679,831 | 6-30-71 | | 1,054,180 | |
| Louisiana..... | NA | NA | NA | NA | |

See footnotes at end of table.

Table 16.6—WORKMEN'S COMPENSATION AGENCY ADMINISTRATIVE BUDGET AND SOURCES OF FUNDS—Continued

| Jurisdiction | Total workmen's compensation administrative budget | | Source of funds | | |
|---------------------|--|--------------------|------------------------|-------------|-----------|
| | Amount received | Fiscal year ending | General appropriations | Assessments | Other |
| Maine..... | \$195,537 | 6-30-72 | \$195,537 | | |
| Maryland..... | 1,200,000 | 6-1-72 | | \$1,200,000 | |
| Massachusetts..... | 1,729,225 | 6-30-72 | 1,593,000 | 255,120 | \$80,000 |
| Michigan..... | 1,700,600 | 6-30-72 | 1,700,000 | | |
| Minnesota..... | 854,000 | 6-30-71 | 732,900 | | 121,100 |
| Mississippi..... | 530,476 | 12-31-71 | | 535,931 | 42,300 |
| Missouri..... | 1,055,000 | 6-30-72 | | 1,300,000 | |
| Montana..... | 1,393,103 | 7-1-72 | | 1,393,103 | |
| Nebraska..... | 233,435 | 6-30-72 | 221,785 | | 11,650 |
| Nevada..... | 2,459,869 | 6-30-72 | | | (*) |
| New Hampshire..... | 31,253 | 6-30-70 | 31,253 | | |
| New Jersey..... | 1,854,007 | 6-30-71 | 1,854,007 | | |
| New Mexico..... | 174,357 | 6-30-71 | 174,357 | | |
| New York..... | 17,343,000 | 3-31-72 | | 17,233,000 | 110,000 |
| North Carolina..... | 791,499 | 7-1-72 | 758,459 | | 33,040 |
| North Dakota..... | 66,705 | 6-30-72 | 666,705 | | |
| Ohio..... | 9,303,033 | 6-30-71 | | 8,372,724 | 930,309 |
| Oklahoma..... | 279,922 | 12-31-72 | 258,906 | | 21,016 |
| Oregon..... | 3,004,069 | 6-30-71 | | 4,284,277 | 37,000 |
| Pennsylvania..... | 1,556,972 | 6-30-71 | 1,556,972 | | |
| Puerto Rico..... | 9,750,630 | 12-31-70 | | | |
| Rhode Island..... | 331,175 | 6-30-71 | 105,780 | 1124,269 | |
| South Carolina..... | 542,922 | 6-30-72 | 542,922 | 1,540,000 | |
| South Dakota..... | 165,000 | 6-30-72 | 165,000 | | |
| Tennessee..... | 163,700 | 6-30-72 | 163,700 | | |
| Texas..... | 1,555,221 | 8-31-72 | | 1,555,221 | |
| Utah..... | 177,700 | 6-30-72 | 177,700 | | |
| Vermont..... | 129,000 | 6-30-72 | 129,000 | | |
| Virginia..... | 793,240 | 6-30-71 | | 856,830 | |
| Virgin Islands..... | 158,858 | 6-30-71 | | 168,858 | |
| Washington..... | 9,254,220 | 6-30-71 | | | 9,254,220 |
| West Virginia..... | 1,324,797 | 6-30-70 | | 1,324,797 | |
| Wisconsin..... | 2,423,432 | 6-30-71 | | | 2,423,432 |
| Wyoming..... | 653,000 | 6-30-71 | 2,423,432 | | 653,000 |

- 1 Federal grants.
 - 2 Cost of administering self-insurance assessed against self-insurers.
 - 3 Refunds.
 - 4 Registration fees and miscellaneous refunds.
 - 5 Workmen's compensation premium income.
 - 6 Budget for entire operation of State Labor and Industrial Commission of which Workmen's Compensation Division is a part.
 - 7 Penalties.
 - 8 Court costs.
 - 9 Entire budget includes Bureau of Workmen's Compensation, Industrial Commission and Safety and Hygiene.
 - 10 State general fund.
 - 11 Curative centre fund.
 - 12 Includes budget for industrial safety.
 - 13 Interest on amount in reserve fund; for biennium. Exclusive State fund.
 - * No data.
 - NA--Not applicable.
- Source: Responses from workmen's compensation agencies to questionnaire.

In some States where the agency is not budgeted independently, the workmen's compensation division may find itself bearing a portion of a parent department's expenses. In Wisconsin, such expenses include but are not limited to supplies and a prorata share of rent. Unlike Wisconsin, the Bu

ureau of Workmen's Compensation in Pennsylvania not charged for services of the parent organization.

Methods of Financing

The principal methods of financing an agency's administrative expenses are appropriations from general revenues, income from State fund operations (including net income from investments), assessments on insurance premiums, licensing fees for writing workmen's compensation insurance, and an earmarked payroll tax.⁹ The assessment method of financing is the one recommended by the Council of State Governments. Most administrators prefer to have workmen's compensation costs financed through assessments rather than legislative appropriations.¹⁰ Such a method of financing provides funds on a relatively regular and predictable basis with less need to compete politically with other agencies for public funds.

Regardless of the source of funds, they are usually appropriated by State legislatures before they are available to the agencies. Many agencies, financing by assessment, must turn funds over to the State treasury to be appropriated to the workmen's compensation agency, as if they were financed by general revenues. Exceptions to this general procedure are in Connecticut, Minnesota, Mississippi, New York, Pennsylvania, and Rhode Island.

As indicated earlier, many administrative costs associated with workmen's compensation are borne by private insurers, State funds, and self-insurers. In approximately half the jurisdictions, because the administrative expenses of State industrial commissions and similar agencies are financed through assessments against these insurers and self-insurers and have, therefore, already been included in the costs of insurers and self-insurers, they do not represent an additional cost of workmen's compensation. In the other half of the jurisdictions, where administrative expenses are financed through appropriations from the general treasury, such expenses represent a cost of workmen's compensation additional to that charged in premiums.¹¹ More than 60 percent of the \$95 million in administrative expenses noted above were financed through assessments. Consequently, only about \$37 million represents an addition to the

costs already reported for insurers and self-insurers.

Assessment as a means of financing has been increasing. Rhode Island has an assessment that is reserved for the cost of operating the rehabilitation facility for workmen's compensation beneficiaries. The Florida assessment method is utilized effectively in supporting the workmen's compensation, rehabilitation, and safety programs. Table 16.7 presents the basis of assessments for each of the States using this method to finance administrative costs.

Table 16.7.—AGENCIES USING ASSESSMENTS TO COVER ADMINISTRATIVE COSTS

| Jurisdiction | Basis of assessment | Disposition of money not utilized |
|---------------------|--|---|
| Arizona..... | 2 percent on premiums..... | Reverts to special funds of industrial commission |
| Arkansas..... | 1½ percent premiums ¹ | Remains in workmen's compensation fund for appropriation. |
| Colorado..... | 0.5 percent on premiums..... | |
| Connecticut..... | Prorated on Compensation payments. | |
| Delaware..... | 4 percent on premiums..... | Turned over to general fund. |
| Florida..... | Maximum 4 percent on gross earned premiums. | Remains in the fund. |
| Georgia..... | Prorated..... | Escheated to general fund. |
| Idaho..... | 1.3 percent on premiums..... | Remains in industrial administration fund. |
| Kansas..... | 0.6194 on total compensation paid. | Surplus goes into an unappropriated account. |
| Kentucky..... | 2 percent on premiums ² | Remains in maintenance fund. |
| Maryland..... | Prorated..... | No surplus, assessment made on actual appropriations. |
| Mississippi..... | Prorated on basis of total compensation paid. | Placed in State treasury. |
| Missouri..... | 3 percent on premiums..... | Remains in workmen's compensation fund. |
| Montana..... | 10 percent on premiums (State fund), and 3.25 percent on premiums (private carriers), 0.63 percent on payroll. | Returns to agency account. |
| New York..... | 0.653 percent on compensation payments. | Carried over to following year. |
| Ohio..... | Assessment on premiums based on payroll. | Retained in State general fund. |
| Oregon..... | 3.72 percent on premiums..... | Retained in reserves. |
| South Carolina..... | 4½ percent on premiums..... | Surplus goes into general appropriation. |
| Texas..... | ¾ of 1 percent on the premiums. | Reappropriated by legislature. |
| Virginia..... | 1.5 percent on premiums..... | Remains in fund. |
| Washington..... | 12.3 percent on total premiums.. | Surplus reverts to workmen's compensation funds. |

¹ May be increased or reduced by Commission.

² Assessment suspended if surplus exceeds \$500,000 in any year.

Sources: Analysis of Workmen's Compensation Laws, 1972 edition, U.S. Chamber of Commerce pp. 41-42. Questionnaire responses received from workmen's compensation agencies.

LONGSHOREMEN'S AND HARBOR WORKER'S COMPENSATION ACT

The final item to be reviewed is the expense of administering the Longshoremen's and Harbor

Workers' Compensation Act and related Federal acts. (The cost of administering the District of Columbia Act has already been included in State agency administrative costs.) Data are available on these administrative expenses but without hard aggregate data on benefits. In 1967 an evaluation of closed cases indicated total cash benefits of about \$18,678,000. If, as was true under State programs, medical benefits were about one-third of total benefits, cash and medical benefit payments would have been \$28,300,000. Administrative costs were \$1,516,000 or about 5.5 percent of benefit payments as estimated above.

The relative cost of administering the Longshoremen's Act is higher than the operating expense of most State agencies. This may be explained in part by the comparatively high salaries paid to hearings personnel and travel and communication costs for operating country-wide with a relatively small number of covered employees.

TOTAL ADMINISTRATIVE COSTS

Summing the expenses and underwriting profits of private insurers, State funds, self-insurers, the Federal Government program, and State administrative agencies produces a total 1971 administrative cost of about \$1.4 billion or 43.1 percent of benefit payments. Investment profits of private insurers are not in this total. Private insurer expenses and profit were obtained by subtracting losses incurred from premiums earned. State fund expenses were estimated at 18 percent of their losses paid, Federal Employees' Compensation Act costs at 3.2 percent, and self-insured program costs at 7.5 percent. State administrative agency costs not covered by assessments on insurers and self-insurers were assumed to be \$38 million.

In Table 16.8, these administrative costs are compared with those of four other major public programs, all of which, except the railroad retirement program, were described in chapter 5.

The railroad retirement system is administered industrywide by the railroad retirement board, an independent Government agency that covers all employees of interstate railroads, associated companies, and labor and management associations of the railroad industry. This program provides a comprehensive system of cash benefits similar to OASDHI which includes monthly benefits for railroad workers who retire due to age or disability

and for their wives or dependent husbands monthly and lump-sum benefits to widows, children and parents; and residual payments designed to insure that the worker and his family receive at least as much in benefits as the employee has contributed in taxes.

Program changes in recent years have broadened the scope of benefits and liberalized eligibility requirements which have resulted in increased individual benefits, as well as increasing the amount of creditable earnings. The program is financed by equal contributions from employers and employees through payroll taxes on creditable wages. A temporary supplemental annuity program, recently enacted, is financed by a tax on employer of 2 cents per man-hours paid for.

The ratio of workmen's compensation expense to benefits is about three times the ratio for unemployment insurance and temporary disability insurance, 13 times the OASDHI ratio, and 44 times the railroad retirement system ratio.

Table 16.8.—TOTAL ADMINISTRATIVE COSTS OF SOCIAL INSURANCE PROGRAM: FISCAL 1971

| Social insurance program | In thousands of dollars | | Administrative cost as a percent of benefits payments |
|---|-------------------------|----------------------------|---|
| | Benefit payments | Total administrative costs | |
| Workmen's compensation ¹ | 3,207 | 1,400 | 43. |
| Old age, survivors, disability, and health insurance..... | 34,432 | 4,133 | 3. |
| Railroad retirement..... | 1,910 | 18,525 | 1. |
| State unemployment insurance.. | 5,229 | 732 | 14. |
| State temporary disability ¹ | 718 | 94 | 13. |

¹ 1970 calendar year.

² Includes \$397,045,000 for administrative expenditures of the health insurance the aged program.

Source: Workmen's compensation estimates explained in footnote 7; other estimates derived from Social Security Administration unpublished data.

Unemployment insurers, as exclusive State funds, incur no selling expenses and pay no premium taxes. They perform no loss prevention services. Temporary disability insurance is written by an exclusive State fund in Rhode Island and by competitive State funds in California, New Jersey, and New York. Private insurers pay only one quarter of the benefits provided under the laws; and their expense ratios, for the reasons explained early in this chapter, under actual expenses, are less than workmen's compensation insurer expense ratio.

OASDHI has no selling expenses, no premium taxes, and no safety program expenses. It also

enjoys huge economies of scale and its death and retirement claims are much easier to adjust than workmen's compensation claims. Furthermore, it is provided small subsidies such as rent-free space in Government buildings.

Railroad retirement administrative expenses are low because this program provides only retirement, death, and long-term disability benefits; though it is not as large as OASDHI, it enjoys economies of scale and most of the other cost savings characteristic of that program.

References to Chapter 16

1. Adapted from Ralph H. Blanchard, "Risk and Insurance" (Lincoln: University of Nebraska Press, 1965), pp. 291-292.
2. *Ibid.*, p. 292.
3. Report of the Interim Commission on Workmen's Compensation," submitted to the Minnesota Legislature of 1953, pp. 23-26.
4. John F. Burton, Jr., "Interstate Variations in Employers' Costs of Workmen's Compensation" (Kalamazoo: The W. E. Upjohn Institute for Employment Research, May 1966), pp. 34-35.
5. The District of Columbia plus 43 States. Oregon data were not available.
6. The Center for Insurance Research, Georgia State University, "The Profitability of Workmen's Compensation Insurance."
7. Alfred M. Skolnik and Daniel N. Price, "Another Look at Workmen's Compensation," *Social Security Bulletin*, XXXIII, No. 10 (October 1970), pp. 22-23.
8. 1962-66 data from Williams, "Insurance Arrangements Under Workmen's Compensation," *op. cit.*, pp. 123, 165. 1970 data from 1971 *Argus F.C. & S. Chart*, 95th annual edition (Cincinnati: The National Underwriter Co., 1971).
9. "Workmen's Compensation, The Administrative Organization and cost of Administration, *op. cit.*, p. 94.
10. Alfred M. Skolnik, "New Benchmarks in Workmen's Compensation," *Social Security Bulletin*, vol. 25, No. 6 (June 1962) pp. 17-18.
11. "Rehabilitating the Disabled Worker," *op. cit.*, p. 42.

GENTLEMEN:

MY NAME IS CLAUDE MATTHIS. I AM THE ASSISTANT MANAGER OF THE OREGON STATE ACCIDENT INSURANCE FUND. I AM HERE TODAY IN RESPONSE TO YOUR INVITATION TO DISCUSS OREGON'S THREE-WAY SYSTEM FOR WORKMEN'S COMPENSATION INSURANCE ... HOW THAT SYSTEM CAME INTO BEING IN MY STATE ... WHAT CHANGES HAVE TAKEN PLACE SINCE THE THREE-WAY LAW WENT INTO EFFECT IN 1966 ... AND FINALLY ... TO TAKE THE LIBERTY OF GIVING YOU MY FEELINGS CONCERNING THE QUESTION NOW BEFORE THIS COMMITTEE.

BUT BEFORE I BEGIN, LET ME COMPLIMENT YOU ON THE FORESIGHT YOU HAVE SHOWN IN SEEKING OUT SUCH INFORMATION FROM THOSE WHO HAVE ALREADY BEEN THERE. I CAN'T HELP BUT WONDER WHAT MIGHT HAVE HAPPENED IF OREGON HAD TAKEN THIS APPROACH BACK IN 1965. PERHAPS TODAY WE WOULDN'T BE ONE OF THE MOST EXPENSIVE WORKMEN'S COMPENSATION INSURANCE STATES IN THE UNION. PERHAPS WE ALSO WOULDN'T HAVE A SITUATION WHERE SOME OF THE VERY GROUPS THAT WORKED SO HARD TO ESTABLISH A THREE-WAY SYSTEM ARE NOW THOSE ^{who} ~~which~~ WHILE STOPPING SHORT OF ADVOCATING A RETURN TO AN EXCLUSIVE STATE FUND, ARE SOME OF THE MOST VOCAL IN THEIR CRITICISM OF WHAT THE SYSTEM HAS BECOME.

BECAUSE, GENTLEMEN, REGARDLESS OF WHATEVER ELSE A THREE-WAY SYSTEM IS ... ONE THING IT IS FOR CERTAIN ... IT IS EXPENSIVE. IT REQUIRES A LARGER CAST OF CHARACTERS THAN DOES AN EXCLUSIVE FUND. THOSE ADDITIONAL PARTICIPANTS BRING WITH THEM ADDITIONAL COSTS. UNDER A THREE-WAY SYSTEM YOU HAVE EXPENSE FACTORS, SUCH AS ACQUISITION COSTS, PROFITS AND REGULATORY COSTS, NOT FOUND IN AN EXCLUSIVE FUND STATE.

JUST HOW MUCH MORE EXPENSIVE IS THREE-WAY? WELL, OBVIOUSLY THAT VARIES FROM STATE TO STATE DEPENDING ON SUCH THINGS AS THE REGULATORY COSTS AND PERCENTAGE OF PROFIT WHICH ARE APPROVED AT THE TIME THE RATES ARE ESTABLISHED.

I CAN, HOWEVER, GIVE YOU AN ILLUSTRATION OF WHAT A THREE-WAY SYSTEM COSTS OREGON EMPLOYERS. THE BEST WAY TO DO THAT IS TO DIVIDE THE COMPOSITION OF THE BASE RATE INTO TWO AREAS: "INSURANCE SYSTEM COSTS" AND "DELIVERY SYSTEM COSTS." THE INSURANCE SYSTEM COSTS ARE, OF COURSE, DETERMINED BY THE TYPE OF SYSTEM USED. A THREE-WAY SYSTEM IS OFTEN THE MOST EXPENSIVE; AN EXCLUSIVE FUND THE LEAST. WITHIN THE DELIVERY SYSTEM COSTS ARE INCLUDED BOTH THE COMPENSATION

BENEFITS PAID TO INJURED WORKERS, AND ALL RELATED MEDICAL AND LEGAL COSTS PROVIDED FROM THE DATE OF INJURY TO THE FINAL DISPOSITION.

IN OREGON, WE FIND THAT 58.8% OF THE BASE RATE IS INTENDED TO PAY FOR THE DELIVERY SYSTEM ... AND THAT THE REMAINING 41.2% IS INTENDED TO COVER THE EXPENSES OF THE INSURANCE SYSTEM. PRIOR TO 1966, UNDER THE FORMER STATE INDUSTRIAL ACCIDENT COMMISSION, ROUGHLY 90¢ OUT OF EVERY DOLLAR COLLECTED WENT INTO THE DELIVERY SYSTEM AND 10¢ INTO THE INSURANCE SYSTEM.

NOW CERTAINLY I DON'T MEAN TO IMPLY THAT JUST THE CHANGE TO A THREE-WAY SYSTEM WAS RESPONSIBLE FOR MAKING OREGON THE MOST EXPENSIVE WORKMEN'S COMPENSATION STATE. THERE ARE NUMEROUS OTHER FACTORS INVOLVED IN THE DELIVERY SYSTEM WHICH HAVE ALSO ADDED GREATLY TO THE COST. THESE INCLUDE A VERY COMPLICATED AND EXPENSIVE APPEALS SYSTEM, VARIOUS COURT DECISIONS, AND CERTAIN LIBERAL DEFINITIONS WHICH DO NOT EXIST IN MOST OTHER STATES, AND WHICH CONTRIBUTE TO SUCH HIGH COST AREAS AS PERMANENT TOTAL AND PERMANENT PARTIAL DISABILITY AWARDS.

BUT THE FACT REMAINS THAT ANY DISCUSSION OF THE MERITS OF A THREE-WAY ... OR OPTIONAL SYSTEM ... MUST BE MADE WITH THE UNDERSTAND-

ING THAT, BY ITS VERY NATURE, SUCH A SYSTEM CREATES ADDITIONAL EXPENSES.

Now ... WHAT DID OREGONIANS GET FOR THAT EXTRA COST? THE EMPLOYER GOT THE OPPORTUNITY TO CHOOSE BETWEEN THE STATE FUND OR A PRIVATE CARRIER. SUCH A CHOICE COULD BE BASED ON STRICTLY PERSONAL FEELINGS, OR IT COULD BE THE RESULT OF COST AND SERVICE COMPARISONS. A FEW OF THE LARGER FIRMS WERE FINANCIALLY ABLE TO ESTABLISH SELF-INSURANCE PROGRAMS. INITIALLY, THE WORKER GOT HIGHER BENEFITS, SINCE A 25% INCREASE WAS PART OF THE THREE-WAY BILL PACKAGE. AN ADDITIONAL 200,000 WORKERS, MANY OF THOSE IN AGRICULTURAL, WERE BROUGHT UNDER THE LAW FOR THE FIRST TIME. AND BOTH THE EMPLOYER AND THE WORKER GOT THE PROMISE THAT OUT OF THE COMPETITION OF A THREE-WAY SYSTEM WOULD COME GREATER SAFETY AWARENESS, BETTER CLAIMS HANDLING AND AN OVERALL IMPROVEMENT IN THE EFFICIENCY OF THE SYSTEM.

IN PREPARING THESE REMARKS FOR THIS MORNING ... I SPENT SOME TIME RE-READING THE NEWSPAPER ACCOUNTS OF THIS PERIOD IN OREGON HISTORY ... SO THAT I COULD GIVE YOU A BRIEF OUTLINE OF THE THINKING OF THE TIME.

PRIOR TO 1966, THE OREGON STATE INDUSTRIAL ACCIDENT COMMISSION OPERATED AN EXCLUSIVE FUND WITHIN THE STATE. PRIVATE CARRIERS COULD NOT WRITE WORKMEN'S COMPENSATION INSURANCE, BUT COULD PROVIDE EMPLOYERS LIABILITY COVERAGE. THERE WERE NO PROVISIONS FOR SELF-INSURANCE. IN EACH OF THE THREE LEGISLATIVE SESSIONS PRIOR TO 1965, EFFORTS HAD BEEN MADE TO OVERHAUL THE SYSTEM. DURING THAT PERIOD THERE WAS LITTLE CHANGE IN BENEFIT SCHEDULES, SINCE, IN THE LEGISLATIVE GIVE AND TAKE, THE VOTES WERE NOT THERE UNLESS THE SYSTEM WAS CHANGED ALONG WITH THE BENEFITS.

IN AN EFFORT TO RESOLVE THE ISSUE, AND WITH THE BELIEF THAT THE WORKER WOULD FAIR BETTER UNDER AN EXPANDED, EXCLUSIVE STATE FUND, THE OREGON AFL-CIO SPONSORED AN INITIATIVE WHICH ASKED THE PEOPLE OF OREGON TO EXPAND WORKMEN'S COMPENSATION COVERAGE TO MOST OF THE WORK FORCE, TO INCREASE BENEFITS BY 18½% AND TO GIVE THE STATE SOLE JURISDICTION OVER SUCH COVERAGE.

IN THE WEEKS PRIOR TO THE 1964 GENERAL ELECTION, BOTH SIDES CONDUCTED ACTIVE AND EXPENSIVE CAMPAIGNS. THOSE OPPOSED TO MEASURE ^{THIRD} ~~THREE~~ INCLUDED: THE STATE'S FOREST PRODUCTS INDUSTRY, WHICH FAVORED SELF-

INSURANCE UNDER A THREE-WAY SYSTEM; MOST BUSINESS AND MANUFACTURING CONCERNS, WHICH FEARED EXPANDED COVERAGE AND A ^{Substantial} ~~METEORIC~~ RISE IN PREMIUMS; AGRICULTURAL INTERESTS, WHICH WERE OPPOSED TO COVERAGE OF THEIR WORKERS; AND, OF COURSE, THE PRIVATE INSURANCE INDUSTRY, WHICH WANTED THE BUSINESS AND, INCIDENTLY, WAS THE LARGEST CONTRIBUTOR TO THE CAMPAIGN.

IN THE END, ^{the} MEASURE ~~THREE~~ WAS DEFEATED. LESS THAN SIX MONTHS LATER THE LEGISLATURE HAD PASSED A THREE-WAY LAW.

THAT LEGISLATION ACTUALLY INCREASED BENEFITS BY NEARLY 25% OVER THE LEVELS PROPOSED ^{by} ~~IN~~ THE AFL-CIO INITIATIVE. IN ADDITION, IT REQUIRED THAT ALL AGRICULTURAL WORKERS BE COVERED WITHIN TWO YEARS, EXTENDED COVERAGE TO NEARLY ALL AREAS OF EMPLOYMENT, AND, THROUGH A SERIES OF COMPROMISES, WHICH WERE NECESSARY TO WIN FINAL PASSAGE, SET THE STAGE FOR APPEALS PROCEDURES, ADMINISTRATIVE STEPS AND JUDICIAL DECISIONS WHICH, AS I MENTIONED EARLIER, HAVE NOW COMBINED TO GIVE OREGON ONE OF THE COUNTRY'S MOST EXPENSIVE WORKMEN'S COMPENSATION SYSTEMS.

7
I ^{believe} ~~think~~ IT IS INTERESTING TO NOTE THAT OF ALL THOSE GROUPS WHICH BOTH OPPOSED THE INITIATIVE TO ESTABLISH AN EXPANDED STATE FUND, AND SUPPORTED THE CHANGE TO THREE-WAY, ONLY TWO APPEAR TO HAVE ACHIEVED THE OBJECTIVE THEY WERE SEEKING, ✓

THE LARGE, INTERSTATE EMPLOYERS WERE ABLE TO QUALIFY TO ADMINISTER THEIR OWN SELF-INSURANCE PROGRAMS. CURRENTLY ABOUT 60 FIRMS ARE CONDUCTING SUCH PROGRAMS IN OREGON. THE OTHER GROUP, OF COURSE, WAS THE PRIVATE INSURANCE INDUSTRY WHICH, WHILE NOT GAINING THE DOMINANCE IN THE MARKET IT EXPECTED, HAS BEEN ABLE TO PICK UP ABOUT 33% OF THE BUSINESS.

BUT OF ALL THE OTHERS ... THOSE WHO FEARED SOARING COSTS ... INCREASED COVERAGE ... A SYSTEM DOMINATED BY ONE FACTION OR ANOTHER ... ALL HAVE NOW COME TO REALIZE THAT THE THREE-WAY LAW WAS NOT THE PANACEA THEY THOUGHT IT WOULD BE.

IN FACT, IN OREGON TODAY WE HAVE A SITUATION WHERE BOTH LABOR AND MANAGEMENT ARE DESPERATELY TRYING TO UNRAVEL WHAT HAS BECOME ALMOST A FRANKENSTEIN MONSTER. NEITHER SIDE IS HAPPY WITH THE SYSTEM.

PREMIUMS HAVE SHOT FROM \$49 MILLION IN 1966, THE FIRST YEAR UNDER THREE-WAY^{1/2W}, TO APPROXIMATELY \$170 MILLION IN 1973. WHILE MUCH OF THAT INCREASE IS THE RESULT OF GREATER COVERAGE AND HIGHER BENEFITS, BOTH SIDES NOW REALIZE THAT ANY INSURANCE SYSTEM THAT LEAVES LESS THAN 59% OF THE BASE PREMIUM RATE TO COVER BENEFITS AND THE OTHER COSTS OF THE DELIVERY SYSTEM IS, INDEED, A MOST EXPENSIVE SYSTEM.

LABOR SEES THAT 41.2% WHICH GOES TOWARD OPERATION OF THE THREE-WAY SYSTEM AS AN AREA WHICH SIPHONS OFF DOLLARS THAT COULD BE GOING INTO BENEFITS. MANAGEMENT SEES IT AS A CONTRIBUTOR TO THE HIGHER RATES, WHICH ARE UP 58.4% SINCE THE FIRST RATE SCHEDULE WAS ESTABLISHED UNDER A THREE-WAY SYSTEM IN 1966.

BOTH ARE CORRECT.

BOTH ARE ALSO BECOMING AWARE OF THE FACT THAT THE STATE ACCIDENT INSURANCE FUND, AS A NONPROFIT OPERATION, REQUIRES ONLY 28.2% OF EACH PREMIUM DOLLAR FOR OVERHEAD AND DIVIDENDS, AND THAT SINCE 1966 IT HAS RETURNED AN AVERAGE DIVIDEND OF 16.1%. THUS, EVEN THOUGH UNDER A THREE-WAY SYSTEM, WHERE RATES ARE LOADED AT 41.2% TO COVER THE COSTS

OF THE "INSURANCE SYSTEM," THE STATE FUND HAS BEEN ABLE TO MAINTAIN A NET ADMINISTRATIVE EXPENSE OF 12.1% OF PREMIUM.

THUS, IN RETROSPECT, MANY OF THOSE WHO FAVORED A THREE-WAY SYSTEM ARE NOW BEGINNING TO HAVE SOME SECOND THOUGHTS. DURING THE 1973 LEGISLATIVE SESSION, THE OREGON AFL-CIO SPONSORED LEGISLATION TO RETURN TO AN EXCLUSIVE STATE FUND. THAT BILL DIED IN COMMITTEE, DUE MOSTLY TO THE OBJECTIONS OF THOSE LARGER EMPLOYERS WHO, AS MENTIONED, ARE OPERATING SUCCESSFUL SELF-INSURANCE PROGRAMS.

SINCE THEN, HOWEVER, A LEGISLATIVE INTERIM COMMITTEE HAS ANNOUNCED IT INTENDS TO STUDY THE POSSIBILITY OF A TWO-WAY SYSTEM WHICH WOULD PROVIDE THE COST ADVANTAGES OF AN EXPANDED STATE FUND, AND STILL ALLOW FOR SELF-INSURANCE. MANY LONG-TIME OBSERVERS WITHIN OREGON ARE NOW SAYING THAT COSTS HAVE INCREASED SO DRASTICALLY THAT IT IS ONLY A MATTER OF TIME BEFORE THAT CHANGE ... THE CHANGE TO TWO-WAY ... IS MADE.

IN SUPPORT OF THAT MOVE, THEY ALSO CITE PENDING FEDERAL LEGISLATION WHICH WOULD SET MINIMUM NATIONAL STANDARDS FOR WORKMEN'S COMP-

ENSATION INSURANCE. IF SUCCESSFUL, THEY POINT OUT ¹²⁶² THE WILLIAMS-JAVITS BILL WILL FURTHER INCREASE COSTS IN OREGON, AS IT WILL IN ALL STATES, AND MAKE THE COST ADVANTAGES OF A STATE FUND EVEN MORE ATTRACTIVE.

BUT THERE IS CERTAINLY ANOTHER SIDE TO THIS QUESTION OF THREE-WAY VS. EXCLUSIVE FUND. THAT IS IN THE AREA OF SERVICE. SERVICE TO BOTH THE WORKER AND THE EMPLOYER. UP UNTIL NOW I LIMITED MY REMARKS TO THE DOLLAR AND CENTS ASPECTS OF AN EXPENSIVE, THREE-WAY SYSTEM. BUT WE ARE TALKING HERE ABOUT MUCH MORE THAN JUST A BALANCE SHEET. IN OREGON, WE ARE TALKING ABOUT SOME 1 MILLION WORKERS AND THEIR EMPLOYERS WHO HAVE A RIGHT TO EXPECT NOT ONLY ADEQUATE PROTECTION, BUT ALSO THE KIND OF SYSTEM THAT OPERATES AS EFFICIENTLY AS POSSIBLE.

I THINK IT IS FAIR TO SAY THAT THE INTRODUCTION OF THE COMPETITION FACTOR WITHIN OREGON HAS HELPED TO IMPROVE THE OPERATION OF THE STATE FUND. WE ARE A STRONGER, MORE EFFICIENT ORGANIZATION TODAY THAN WE WERE IN 1965.

IT IS INTERESTING TO NOTE, HOWEVER, THAT WHEN THE CHANGE WAS MADE ALL THE "EXPERTS" WERE PREDICTING THAT THE FUND WOULD SOON BE NEARLY WIPED OUT. THAT IT WOULD NOT BE ABLE TO COMPETE WITH THE PRIVATE SECTOR. THAT WITHIN A FEW YEARS, IT WOULD ONLY HAVE THAT BUSINESS WHICH THE PRIVATE CARRIERS DIDN'T WANT ... AND THAT SUCH AREAS AS CLAIMS AND SAFETY WOULD BE HANDLED SO WELL BY THE PRIVATE CARRIERS THAT EVEN THE AFL-CIO WOULD HAVE TO ADMIT THAT THREE-WAY IS THE BEST WAY.

WELL, IN REALITY IT DIDN'T QUITE HAPPEN THAT WAY. RATHER THAN THE FUND FIGHTING TO KEEP UP WITH THE PRIVATE CARRIERS, IT LEADS THE WAY.

TODAY, SAIF HAS NEARLY TWO-THIRDS OF THE MARKET. OVER THE PAST SEVEN YEARS, ITS DIVIDEND PAYMENTS HAVE BEEN DOUBLE THOSE OF THE PRIVATE CARRIERS. DURING 1972, IT HANDLED NEARLY 64% OF THE STATE'S TIME-LOSS CLAIMS MORE QUICKLY THAN THE PRIVATE CARRIERS WERE ABLE TO MAKE PAYMENT ON THEIR 36%.

SAIF HAS ESTABLISHED GROUP INSURANCE PLANS FOR SOME 30 MAJOR TRADE ASSOCIATIONS. SUCH PLANS NOW MAKE UP MORE THAN ONE-THIRD OF TOTAL PREMIUMS AND ARE AN IMPORTANT PART OF OUR STATE-WIDE SAFETY PROGRAM, WHICH IS PROVIDING OUR POLICYHOLDERS WITH INCREASED DIVIDENDS AND THEIR EMPLOYEES WITH A SAFER PLACE TO WORK.

THERE ARE OTHER POINTS OF ACCOMPLISHMENT I COULD MENTION ... SUCH AS OUR NEW COMPUTERIZED CLAIMS SYSTEM ... OUR NETWORK OF 16 DISTRICT OFFICES STAFFED WITH SAFETY, CLAIMS AND SERVICE PROFESSIONALS ... AND A MARKETING DIVISION WHICH MEETS THE COMPETITION HEAD ON ... AND USUALLY COMES AWAY WITH THE BUSINESS. BUT I'M CERTAINLY NOT HERE TO SELL YOU A POLICY. NOR, DO I WISH TO GIVE THE IMPRESSION THAT THE OREGON STATE ACCIDENT INSURANCE FUND HAS NOTHING BETTER TO DO THAN TRAVEL AROUND THE COUNTRY BLOWING ITS OWN HORN.

I MENTION THESE ACHIEVEMENTS ONLY TO POINT OUT THAT IN OREGON, WHERE SAIF HAS THRIVED ON COMPETITION, IT HAS DONE SO AT THE EXPENSE OF BOTH LABOR AND MANAGEMENT. IN THE NAME OF COMPETITION AND IMPROVED SERVICE OUR STATE WAS SADDLED WITH THE ADDITIONAL COSTS OF A THREE-WAY

SYSTEM. YET, WITH THE EXCEPTION OF AN AGRESSIVE SALES FORCE, ALL OF THOSE SAFETY, CLAIMS AND SERVICE INNOVATIONS I MENTIONED A MOMENT AGO ARE WHAT WE HAVE A RIGHT TO EXPECT OF ANY STATE FUND, WHETHER IN COMPETITION OR NOT.

I GUESS WHAT IT REALLY COMES DOWN TO IN MY MIND IS THIS:

... IS IT REALLY NECESSARY TO INTRODUCE SUCH ADDITIONAL EXPENSE FACTORS AS PROFIT AND ACQUISITION COSTS JUST TO INSURE THAT THE STATE FUND DOES THE JOB IT'S SUPPOSE^d TO^{do}? DOESN'T THE MACHINERY EXIST ALREADY TO ESTABLISH PERFORMANCE STANDARDS TO BE MONITORED BY THE LEGISLATURE, THE GOVERNOR, REGULATORY AGENTS SUCH AS THE INSURANCE COMMISSIONER, OR, PERHAPS, EVEN A PERFORMANCE COMMITTEE OF LABOR AND MANAGEMENT REPRESENTATIVES?

...WITH THE NATIONAL OCCUPATIONAL SAFETY AND HEALTH ACT NOW A REALITY, IS A TUG-A-WAR BETWEEN ^{the} PRIVATE CARRIERS AND THE STATE FUND THE ONLY WAY TO ACHIEVE ON-THE-JOB SAFETY?

...IS IT SO WRONG FOR A NO-FAULT INSURANCE SYSTEM WHICH TOUCHES THE LIVES OF NEARLY EVERY CITIZEN TO ALSO BE A NO-PROFIT SYSTEM?—

ESPECIALLY WHEN IT IS THE KIND OF PROFIT WHICH OFTEN IS REMOVED FROM THE STATE'S ECONOMY, RATHER THAN BEING RETURNED TO THE EMPLOYER IN THE FORM OF LOWER RATES OR HIGHER DIVIDENDS.

...AND FINALLY, WITH THE POSSIBILITY OF FEDERAL INTERVENTION LOOMING JUST OVER THE HORIZON, ISN'T NOW THE TIME TO BE STRENGTHENING OUR STATE FUNDS ... PREPARING TO DEFEND OUR RIGHT TO ADMINISTER OUR OWN WORKMEN'S COMPENSATION INSURANCE PROGRAMS ... RATHER THAN WEAKENING THEM AT THE VERY MOMENT WE NEED THEM THE MOST?

WELL, I THINK ITS BECOME QUITE APPARENT BY NOW WHAT MY PERSONAL FEELINGS ARE ABOUT THE DISADVANTAGES OF A THREE-WAY SYSTEM, I ONLY WISH I COULD HAVE BROUGHT WITH ME TODAY SOME REPRESENTATIVES OF OREGON LABOR AND MANAGEMENT GROUPS, SO THEY COULD TELL YOU FIRST HAND OF THEIR FRUSTRATIONS WITH THE SYSTEM OVER THE PAST FEW YEARS.

IF THOSE REPRESENTATIVES WERE HERE ... I BELIEVE THEY WOULD TELL YOU, AS I HAVE, THAT OREGON'S THREE-WAY SYSTEM IS ONLY ONE OF THE

FACTORS WHICH HAVE CONTRIBUTED TO OUR SOARING COSTS, BUT IT HAS CERTAINLY BEEN A FACTOR.

A FACTOR WHICH MORE AND MORE OREGONIANS NOW BELIEVE IS AN UNNECESSARY ONE!

THERE WERE A NUMBER OF QUESTIONS YOU RAISED IN YOUR INITIAL LETTER TO OUR GENERAL MANAGER WHICH I DID NOT COVER IN MY PREPARED STATEMENTS. I COULD TOUCH ON THOSE NOW IF YOU WISH ... OR ANSWER QUESTIONS CONCERNING THE MATERIAL I JUST PRESENTED.

white paper
on workers
compensation

1268

white paper on workers' compensation

a report
on the need for reform
of state workers' compensation

prepared by
U.S. Department of Labor
U.S. Department of Commerce
U.S. Department of Health,
Education and Welfare
U.S. Department of Housing and
Urban Development

May 13, 1974


MEMORANDUM FOR THE PRESIDENT

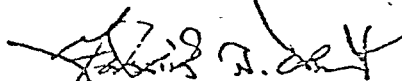
Subject: Interdepartmental Study on Workers' Compensation

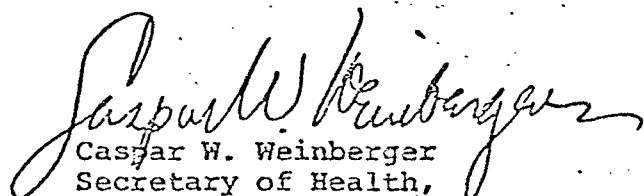
Since February 1973, an interdepartmental group has been working in the area of workers' compensation. They have analyzed the recommendation of the National Commission on State Workmen's Compensation Laws and pose many substantive questions on the future of workers' compensation which must be addressed to assure that the development of long-range policy in this area is based on the essential questions of program interrelationships, proper compensation for workers, adequate rehabilitation and reemployment services, and proper incentives for employers and employees to prevent accidents and diseases in the workplace.

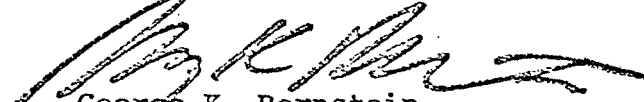
Attached is the working group study, which arrays many of these questions and also suggests the need for immediate modifications in State workers' compensation laws. At this time, these suggestions are not definitive but merely descriptive of methods that could achieve substantial improvements in the operation of the existing State workers' compensation program. We recommend that a task force be established to provide States with the appropriate technical assistance to achieve these objectives and also to undertake more intensive analysis and research into the issues raised in the study group report.

Respectfully,


Peter J. Brennan
Secretary of Labor


Frederick B. Dent
Secretary of Commerce


Caspar W. Weinberger
Secretary of Health,
Education, and Welfare


George K. Bernstein
Federal Insurance
Administrator

 Background:

Each year thousands of workers are killed on the job; 100,000 are permanently injured; and 2,000,000 miss one or more days of work due to injury or illness "arising out of or in the course of employment". The cost of State workers' compensation programs, the primary means of coping with the human and economic problems involved, was \$6.0 billion in 1973 - up from \$5.6 billion the year before.

In recent years, a growing concern about worker safety and health has prompted a number of Federal actions. Improvements have been made in workers' compensation programs run by the Federal Government such as the Federal Employees' Compensation Act, 5 U.S.C. 8101, and the Longshoremen's and Harbor Workers' Compensation Act, 33 U.S.C. 901. In addition, the Congress in 1969 passed the Coal Mine Health and Safety Act, 30 U.S.C. 801, which provides for workplace standards, plus medical care and benefits for miners suffering from black lung. In 1970, standard-setting and enforcement authority was provided for the rest of the Nation's work force by the Occupational Safety and Health Act, 29 U.S.C. 651. This Act also called for the creation of a National Commission on State Workmen's Compensation Laws.

The Commission was appointed by the President under the Chairmanship of John F. Burton of the University of Chicago. Other members were selected from the medical profession, industry, labor, workers' compensation agencies, universities, and the insurance industry. Working in a short time and with limited data, the Commission dealt with many, but not all, of the programs' problems. The Commission's report, issued in 1972, contained 84 recommendations for improvement of workers' compensation. ✓

Nineteen of these recommendations were considered so "essential" in the Commission's

estimation as to require Federal action by July 1975 if the States did not sufficiently improve their existing systems. These "essential" recommendations included: complete compulsory coverage; full coverage of work-related diseases; full medical and physical rehabilitation services without arbitrary limits; employee's choice of jurisdiction for filing interstate claims; adequate weekly cash benefits for temporary disability, permanent total disability, and death; and elimination of arbitrary limits on duration or sum of benefits. Other recommendations of the Commission dealt with promptness of payment of claimants, minimizing the costs and delays inherent in the present adversary systems, and establishing uniformity among the incompatible reporting systems maintained by various States.

We generally support the "essential" recommendations of the Commission.

The recommendations of the National Commission have already had a considerable impact on many States. Since 1972, there has been a flurry of State legislative activity. In 1973 alone, 400 bills were enacted to strengthen various aspects of workers' compensation, mostly by increasing benefits and coverage. (Tables 1 and 2 show how State laws compare to the National Commission's essential recommendations.)

On the other hand, in part because of the shortness of time, the Commission's report included little exploration of the potential advantages of broader changes that may make it easier to attain the basic objectives of workers' compensation. The report itself acknowledged that the Commission had been unable to deal adequately with such subjects as permanent partial disability or the efficient administration of workers' compensation systems. An interagency task force on workers' compensation, which has been reviewing the Commission report and related materials, has defined additional issues which require careful investigation if the goals of workers' compensation are to be achieved.

✓ *Report of the National Commission on State Workmen's Compensation Laws, U.S. Government Printing Office, 1972.*

A Plan of Action

We recommend a strategy based on the availability of sound recommendations for improving many aspects of workers' compensation, the recent record of legislation in the States, and with the knowledge of the many unanswered questions which preclude the design of an ideal system to achieve the goals of workers' compensation. Therefore, we recommend challenging the States to undertake an immediate program of reforms and concurrently beginning a major Federal research effort to find solid grounds for further recommendations for improvements.

The immediate program of reforms consists of the following minimum objectives for the States to meet by the end of 1975:

Coverage of workers. Many States still do not cover domestic workers, farm laborers, and employees of very small businesses. The National Commission found that about 15 percent of the national labor force is not protected by any workers' compensation system. In 15 States, 30 percent or more of the workers are not covered.

Coverage should be mandatory and complete. There should be no exceptions because of size of establishment or type of industry. Coverage should therefore extend to farm and domestic workers as well as State and local government employees. Special provisions may be appropriate for certain hard-to-administer groups. For example, domestics covered by Social Security should also be covered by workers' compensation, and this might be accomplished through homeowner or tenant insurance policies.

Extraterritoriality. Benefits for workers nominally covered by workers' compensation are sometimes denied or delayed because of disputes over the jurisdiction in which the case should be brought. This is a significant problem since many businesses operate in several States and many American workers are mobile across State jurisdictions.

An employee (or his survivor) should be able to make his claim in the State in which

his injury (or death) occurred, his employment was principally located, or he was hired. This minimum objective ensures that employees will not be barred from pursuing their claims in any State which provides a proper forum.

Occupational Disease. At the end of 1973, only 43 States provided for full coverage of work-related diseases. Moreover, the long latency period of some diseases often results in the exclusion of workers from coverage because of time limits on filing claims. Another problem resulting from long latency periods is that the worker may have been exposed to the same or a variety of hazards in several jobs. Consequently, the sick employees must establish that his disease is due to a specific hazard (often for a certain period of time), and that there was a direct connection between this hazard and his job (at a specific place of employment). The result often is costly, time-consuming, case-by-case litigation, with no reasonable assurance that valid claims will be paid. On the other hand, in some jurisdictions there has been a tendency to attenuate the relationship between disease and job.

It is hard to determine the cause of many illnesses.^{2/} Occupational disease can be viewed as arrayed along a spectrum that varies from diseases that are almost solely occupationally related, such as "black lung", through certain cancers which are much more prevalent among workers in some occupations than in the general population, to those conditions such as heart attacks and ulcers which occur frequently in the general population but which can be aggravated by work conditions.

An additional problem with respect to occupational disease is assessing responsibility against the appropriate employer. In the case of diseases that have long incubation periods, a disabled employee may have worked for several employers, perhaps located in several States. A truly equitable allocation of responsibility among employers will be difficult if not impossible. In carrying out its responsibilities with respect to "black lung" under

^{2/} See *National Commission Report, Chapter 2*; also *Compendium on Workmen's Compensation, Chapter 12*.

the Federal Coal Mine Health and Safety Act the Department of Labor designated the last employer (under certain conditions) as the responsible employer, considering this to be the most reasonable and workable option. However, there are other possible alternatives for financing such claims, such as a production tax.

Full coverage of all diseases which "arise out of or in the course of employment" that can be established by case or by class should be provided. To determine work-relatedness in individual cases, the States may need to make greater use of medical disability evaluation units, as the Commission recommended. Determinations of work-relatedness may have to be based, at least in part, on analyses of the incidence of various diseases among those working in specific occupations, compared with the incidence of the same diseases among the general population. We recommend that the Federal Government assist the States to resolve these problems through study and technical assistance.

Medical Care and Rehabilitation. Medical care and physical and vocational rehabilitation are vital components of an effective workers' compensation system. To the injured worker, they provide a means for returning to gainful employment, with all the economic and social benefits that arise. To the employer, they can reduce the costs of workers' compensation. However, some States impose arbitrary limits on the duration, total expenditure and/or type of medical service provided. Many of these limitations, unrelated to the needs of the individual patient, seek merely to control the financial costs of States' systems. But the economic loss may be greater than the financial saving if rehabilitation is jeopardized. When physical rehabilitation is curtailed, the worker may be left unnecessarily incapacitated.

Moreover, workers' compensation agencies frequently have no procedure for identifying those injured or ill workers who could benefit from rehabilitation or employment services. Similarly, there is little systematic coordination between State compensation systems and the

Federal /State Vocational Rehabilitation (FSVR) programs.

There should be no arbitrary limits, whether in dollars or duration, on the amount of medical care and rehabilitation provided. Rather, each case should be considered on its merits. The nature and extent of vocational rehabilitation should take into account the additional earnings that may be realized when the injured worker becomes employable. In the case of permanent disability, medical review will be required from time to time, especially in those cases in which slow but continued rehabilitation progress can reasonably be expected. In addition, each State should reexamine its referral procedures to ensure that all work-related disabilities are made known to rehabilitation units.

Benefits Each State pays income maintenance benefits to replace some portion of the earnings lost through temporary total disability, permanent total disability or death due to work-related injury or illness. Conceptually, what is sought is a benefit level that: (a) maintains an adequate standard of living related in some way to the one that would have been experienced in the absence of injury or illness, (b) takes into account the fact that living costs may be reduced while the worker is at home and not incurring the day-to-day expenses of working, and (c) contains a sufficient incentive for the injured worker to engage in rehabilitation and promptly to seek reemployment when possible. Maintaining a standard of living that is related in some way to the one which would otherwise have been experienced is partially achieved by basing benefits on wages. The National Commission recommended that benefits be based on two-thirds of income loss. ^{3/}

The two-thirds standard is a traditional reduction from prior wages. Also, fringe benefits, which have become an increasingly large part of total compensation, are not included in the calculation of workers' com-

^{3/} Table 2 attached shows how the States currently stand compared to the Commission recommendations on benefit levels.

pensation payments. There is a real need to look closely at what benefit level best approximates what the worker has lost, including a detailed analysis of fringe benefits and the effects of taxation. Study is needed of the possibilities of paying benefits on a spendable income and fringe benefits basis rather than on a gross income one.

Most benefit payments are based on wages earned at the time of accident or illness. Since a worker's lifetime earnings pattern varies considerably with age, this method of calculating benefits represents a substantial inequity, especially for young people. Conversely, most would agree that workers with only a casual attachment to the labor force should probably not be awarded benefits based on their wages at the time of accident as though they were full-time labor force members.

Estimating future earnings is very complex. Study is required to determine whether generally acceptable techniques can be developed. Such factors as age, education, experience, and past and current earnings would have to be taken into consideration. If such techniques are developed and applied in the system, it may also be necessary to take into account fringe benefits and the availability of pensions.

All States also have some maximum limit on benefits. The maximum rate of payment is usually a specified dollar amount or a specified percentage of the State's average wage. Some States also have limits on when and for how long income benefits can be paid. Clearly, the current maximum levels in most States impose serious hardships on many workers and their families. The appropriate approach for dealing with a maximum should have a high priority.

If the concept of a maximum is to be accepted, there must be some basis for setting it at a particular level. For example, in submitting legislation to the Congress on unemployment insurance, the President suggested setting the maximum at a point at which 80 percent of the benefit recipients would be unaffected by the maximum. A similar approach might be warranted for workers' compensation. *s/*

s/ Price, Daniel, Workmen's Compensation and Other Programs, National Commission Study, No. 10, dealt with this problem to a very limited extent.

An aspect of maximum benefit levels that has received little attention in the past is the income transfer effect. Since premium payments are based on wages up to a specified level per worker and since maximum benefits are generally (though not always) based on average weekly wages within a State, an income transfer probably takes place. Since workers' compensation is essentially a type of insurance program and not an income transfer mechanism, more analysis in this area is required to prevent inequities.

Finally, an approach that deserves further analysis is eliminating maximum payments and/or applying the individual income tax to workers' compensation benefits. Under this approach, the relation of an individual's benefits to his wages would have to be reconsidered. Such an approach would tend to remove the inequity suffered by persons earning above average incomes; and it would permit closer correspondence between premiums paid and benefits received. By making the benefits taxable, there is an automatic adjustment for dependents, and the progressive nature of the tax reduces the disparity between real benefits received by high-income and low-income individuals.

Currently, the median State program pays less than 45 percent of wages lost for temporary total disability. Further, in 1972, 33 out of 57 jurisdictions had maximum payments below the so-called "poverty line."

We recommend an interim goal of having total disability and death benefits no less than two-thirds of the claimant's average weekly wage. Although we do not disagree with the interim goals of the National Commission with regard to the maximum benefit levels for total disability and death, we feel that a great deal of study needs to be conducted as to the possible work disincentives and the relationships to such factors as the non-taxable nature of the income and pensions. There should be no limit on payment duration or total dollar amounts during the period of disability or statutory dependence.

Cost of Living Adjustment. Beyond the recommendations of the National Commission, we are concerned by the erosion of the value

of workers' compensation benefits due to the long-term impact of inflation. Benefits which may have been adequate at the time they were granted, have, over the years, become seriously inadequate.

The States, therefore, should enact an annual cost of living adjustment in benefits paid regularly to employees' survivors and to persons with long-term disabilities. This adjustment should be automatic and compensate for changes in the purchasing power of benefits. On a prospective basis, this should be implemented immediately. The complexity of retroactive adjustments for those disabled in the past requires further study, including consideration of a gradual phase-in of benefit adjustments.

The Data System. Since 1919, the States have not responded to the recommendation of successive Statistical Committees of the International Association of Industrial Accident Boards and Commissions that they develop and adhere to nationally standardized tables of accounts and statistics. Yet, information is at the core of evaluation and management control. It provides the essential basis for evaluating the outcome of workers' compensation for each individual worker, as well as the means of improving the safety of the workplace and rehabilitation, the adequacy and equity of benefits and case decisionmaking processes, and the efficiency of the entire system.

The National Commission was handicapped by the lack of reliable, compatible, and adequate data. These same deficiencies will continue to handicap those who try to evaluate programs in the future unless uniform definitions are developed. Comparable definitions, together with uniform measures of efficiency, will aid in determining how much it is reasonable for a State agency to spend on such tasks as accident prevention; establishing work-relatedness and lost earnings; rehabilitation; and reemployment services.

Each State should immediately strengthen the data system for worker's compensation, laying the basis for prompt adaptation to the model data system now under development.

The Federal Role: Technical Assistance.

In support of State efforts to immediately improve workers' compensation, the Federal Government should provide technical assistance services. An inter-departmental task force should be formed with participation by the Departments of Labor, Commerce, HEW and the Federal Insurance Administration of HUD to provide technical assistance, information packages and other aid to the States. Based on literature search, selective analysis of the experiences of States which have met the standards and other analyses, the information packages might include such topics as approaches for coverage of hard-to-administer groups, guidelines and procedures for establishing appropriate amounts of medical care and rehabilitation, suggested language for determining in which State employment is "principally located" or for implementing prospective adjustment for price changes.

The difficult area of administering the goal of full coverage of occupational disease requires special attention. The National Institute for Occupational Safety and Health needs to develop guidelines for the use of State agencies in recognizing both health hazards and diseases which may be occupationally related.

Policy research should be conducted in the area of benefits. Should the concept of a maximum benefit be retained in view of the income transfer effects of such maxima, or should benefits be subject to the income tax? If maxima are retained, what criteria should be used to set them? What level of benefits maintains an adequate standard of living, takes account of reduced work expenses and possibly increased disability-related expenses, and contains an incentive for the injured worker to engage in rehabilitation and seek reemployment? Should benefits be based on spendable instead of gross income, as the National Commission suggested, drastically changing the insurance concept? Should benefit payments be based on some estimate of future earnings, especially for young people

whose prospective earnings may be quite different from their current wage? Answers to such questions are necessary to form the basis for further recommendations on benefit levels.

Finally, the Federal Government should proceed rapidly with the development of a model data system. This system will provide means of tracking individual cases from the point of injury through the network of transactions and services to reemployment or other outcomes. It will permit auditing transactions and costs, and comparing cost-effectiveness analyses of the alternative means of administering workers' compensation programs. In addition, the possibilities of linkages to the data systems mandated by the Emergency Medical Services Systems Act of 1973 and the Occupational Safety and Health Act of 1970 should be explored. These linkages offer an exciting potential for achieving maximum medical recovery and rehabilitation and for significant improvements in workplace safety.

It is proposed that this data system will:

- (a) provide more data on the characteristics of injuries, injured workers, and workplaces where injuries occur;
- (b) Provide data on the processing of claims, including data on benefit levels, medical care and rehabilitation;
- (c) permit linkages between workers' compensation data and OSHA data on workplace safety and health;
- (d) establish a sample of workers' compensation claimants' characteristics;
- (e) provide a basis for comparisons of alternative State systems of workers' compensation, including the incentives built into the system that affect employees, employers, insurance carriers and State workers' compensation agencies.
- (f) include appropriate fair information practices safeguards.

Recent legislative actions taken by many States indicate their willingness to continue the pace of improvement in workers' com-

pensation. At the end of 1975, an evaluation of the progress of the States should be reported to the President and to the Congress, with recommendations for Federal action, if appropriate.

A Program of Research

Concurrently with the plan of action to promote improvements in the State workers' compensation systems, we propose a major program of research to analyze the fundamental issues and to develop options for further improvements.

Safety and Health. Workers' compensation insurance premium assessments on employers, based on the accident and illness record of each firm, were intended in part to provide employers with an incentive to make workplaces less hazardous. In addition to the assessment incentive, workers' compensation programs, by internalizing accident costs to the firms, were supposed to induce direct safety and health services, including technical assistance and training.

But the effectiveness of workers' compensation costs in promoting occupational safety and health is unclear. None of the three studies^{5/} for the National Commission which dealt with the effects of workers' compensation on the frequency and severity of accidents found any empirical evidence to support the hypothesis that workers' compensation helps reduce accidents.

Theoretically, firms should have greater motivation to prevent accidents and illness if they are experience-rated or self-insured. However, only the largest firms, which tend to have low accident rates, can afford self-insurance, and only one-quarter of all firms subject to workers' compensation are experience-rated. If experience rating provides useful

^{5/} *Industrial Accidents, Study No. 25, Chelius, James; and Pricing Safety Regulation, Study No. 26, Russell, Louise.*

Incidence of Insurance Premiums, National Commission Study No. 17, Vroman, Wayne. Vroman finds that most of the assessment costs are avoided by employers. He recognizes that his conclusions are not final and that there is need for more and better data with which to test them.

incentives, consideration should be given to extending it to many of the remaining three-quarters of all employers.

If occupational safety and health programs are effective, they should reduce the number and seriousness of injuries and illnesses, thus, in turn reducing the costs of workers' compensation.

With this in mind, methods must be found to improve the use of workers' compensation data in determining the type, amount, and direction of occupational safety and health programs. For example, the data on worker claims should be structured to reveal any safety and practices needing special attention through research, standards, enforcement, or training targeting. Similarly, an examination should be made on what weight, if any, should be given findings of violations in occupational safety and health inspections in determining workers' compensation assessments. Study is needed of what safety and health services should be delivered and how, particularly to small firms.

Research will be undertaken to attempt to answer the following questions about the role of workers' compensation in safety and accident prevention. Does the present system of experience rating encourage safe and healthful workplaces? Would expansion of and/or improvements in experience rating provide effective incentives? Should experience rating be more closely related to controllable hazards? What should be the relationship between activities under the Occupational Safety and Health Act and workers' compensation systems? What additional preventive measures could be taken to provide safer and more healthful workplaces?

Rehabilitation. Many workers are not receiving adequate rehabilitation. The National Commission estimated that between 6,000 and 9,000 workers in 37 workers' compensation jurisdictions needed vocational rehabilitation in 1972. A recent estimate by HEW set the need for all States at closer to 54,000. While these data are not directly comparable, they indicate that rehabilitation may not be reach-

ing all of those who need it. In fact, based on the numbers of workers rehabilitated under the program in Ontario, Canada, which is generally regarded as one of the most effective workers' compensation systems, the number who need rehabilitation services in this country may even be higher than the HEW estimate. There is a strong social and economic case for improving rehabilitation services since the available evidence indicates that vocational rehabilitation is more cost-effective for workers' compensation claimants than for the general client population of the Federal/State Vocational Rehabilitation (FSVR) programs.

One comparison brought out that permanent disabilities range from 24 to 31 percent of total workers' compensation claims in selected States without rigid medical control or extensive rehabilitation programs, but only 4 to 5 percent in Canadian Provinces which have systematic case management systems. ^{5/} The reasons for this striking difference should be carefully explored. To what extent are they due to differences in the industrial base? To differences in type and severity of accidents? To differences in case settlement? To availability and quality of rehabilitation facilities? To case management procedures? To social attitudes, economic opportunities or economic incentives?

The deficiencies in rehabilitation include the lack of systematic screening to identify workers who could benefit from vocational rehabilitation and ensure that they do receive it; faulty knowledge of good rehabilitation practice; inadequate resources; the disincentive to early rehabilitation generated by the need to prove the extent of disability; and the lack of any assurance of a job after rehabilitation. ^{7/}

A possible approach is to key merit rating explicitly to vocational rehabilitation out-

^{5/} "Workmen's Compensation and Rehabilitation," *Rehabilitation Literature*, August 1962, Felton, S.F.

^{7/} For example, the Administrator of the California Department of Rehabilitation recently testified that most workers' compensation disability cases are not referred until one to three years after the injury occurred.

comes in order to motivate employers (and perhaps through economic incentives, their insurance carriers). Study is required to determine if this is feasible. For example, how would outcomes be measured; what type of data base is required, and what is the probable cost of such a rating scheme? Also, the experience of the Ontario system needs to be examined closely to determine its strengths in this area.

Another important area of study concerns how much vocational rehabilitation should be provided. A policy based solely on economics would suggest that such services should be provided only if the costs do not exceed the gain in expected income. While conceptually attractive, this policy might be difficult to implement and would conflict with our human values and social policy. Other policies might be: restoring as much of the worker's earning power as possible; preparing him for the best job for which he is capable; or training him for any job which, considering his condition, he might be able to obtain in his community. There is also a need to reassess the role of sheltered workshops. The benefits and costs of each approach should be made available to decision makers. ^{9/}

Reemployment. Workers' compensation programs should not only rehabilitate workers physically, psychologically, and vocationally, but help them find equivalent reemployment if possible. The system should in some way remove disincentives for employers to hire disabled workers and provide incentives to do so.

The National Commission noted that, even after rehabilitation, injured workers had difficulty in securing jobs. Among the reasons

are a common belief that an already injured worker is more likely to be injured again and that a second injury will occasion a worse disability. The loss of a second eye on a subsequent job is far more serious than the loss of one eye on an earlier job. Accordingly, the Commission recommended improved second injury funds, even though it was realized that at best they only lessen a disincentive to hire. ^{9/}

Many employers underestimate the capabilities of disabled employees. Better incentives should be sought to encourage employers to hire or rehire rehabilitated workers. One example would be to extend benefits—which the employer could use as a wage subsidy—through the first six months (or more) of employment.

A related question concerns providing employment services to the rehabilitated worker. Better means of placement must be found. There have been suggestions that employers be required to reemploy workers if they can do the job satisfactorily. This was tried to some extent under the Coal Mine Health and Safety Act, but more research is needed.

For very badly disabled workers, a better designed and capitalized sheltered workshop program might prove both feasible and desirable. Sheltered workshops, both publicly and privately sponsored, exist in a number of States and abroad, but their ability to meet the demand and their relation to workers' compensation is not presently known.

Research will be undertaken into making second-injury funds more effective. Availability of jobs suitable for persons with a history of occupational injury or illness will be examined. What training would be necessary? What other barriers to employment are there, and how can they be overcome? To what extent would job restructuring or sheltered workshops be helpful? Could re-employment incentives be devised to strengthen

^{9/} See Workers' Compensation Board, Ontario, *Study of the Economics of Rehabilitation*, January 1970. The results of the quantitative analysis reveal that on the average, the net economic benefit of rehabilitation services to workers injured in 1965/66 is \$15,200, expressed in terms of 1966 dollars. This sum represents the value of increased lifetime earnings that can be expected by an injured worker in 1965/66 over what was received by his counterpart injured in 1927/28 before physical and vocational rehabilitation services were provided. See also Kiser, Larry, *Benefit-Cost Analysis of Rehabilitation*, National Commission Study No. 21.

^{9/} Larson, Lloyd W., *The Role of Subsequent Injury Funds in Encouraging Employment of Handicapped Workers*, National Commission Study No. 23.

en the employers' desires to rehire handicapped people who previously worked for them?

Efficiency. Workers' compensation systems must be more efficient than they are today. While it is understandable that employees desire higher benefit levels, improved services and broader coverage, it is equally understandable that employers feel strongly that more of the higher costs must directly benefit claimants. Although direct comparisons are difficult, the ratio of administrative costs to benefits in the United States appears to be about four times higher than in so-called inquiry (non-litigation) systems in several Canadian provinces.

Operating costs for State workers' compensation agencies averaged about three percent of benefit payments in 1970, though States differ a great deal. While we know this is due partly to differences in types and quality of services provided, to the industrial composition of the States, and to the salary levels of agency employees, the reasons for differences must be studied closely. ^{10/}

Insurance expense is the major administrative cost. Additional analysis is required to determine whether or how insurance costs can be reduced, including examination of the possibility of more effective competition within the insurance industry. Alternatively, would substantial reductions in administrative expenses prove counter-productive by reducing safety programs or limiting services to employers and employees alike? What would be the effect of eliminating uniform rate tables and opening rate making to competition? Would heightened competition adversely affect availability of insurance for small employers? Would this reduce the expense loadings of the less efficient carriers? What would be the effect of opening the workers' compensation market to insurance companies other than casualty companies? Would lower costs result if combination policies could be sold by

companies which offer group health or disability policies to employers? Would employees gain added protection? What safeguards would be required to assure that workers' compensation protection remains adequate? State insurance funds also need to be examined. They generally have lower expenses relative to private insurance funds. ^{11/}

The Adversary Process. While State workers' compensation laws have largely removed fault as an element of controversy, questions of work-relatedness and the extent of disability still result in a substantial degree of adversariness within the system. Few cases actually reach the courts, most being settled prior to that stage; but access to the courts is always possible. In some States, access is restricted to matters of law only, with questions of facts determined through an administrative mechanism. In other States, court cases can be tried *de novo*. Litigation results in high overhead costs in the system which are often deducted directly from awards. In addition, the consequences of potential litigation may be increased claim size. And, because of experience rating, employers may make excessive use of litigation in costly claims. This may skew the distribution of benefit awards toward minor and away from major disability cases. Moreover, an adversary system may result in some employees delaying rehabilitation lest it adversely affect their claims. This delay in turn may reduce the ultimate degree of rehabilitation. It may result in the individual's acceptance of the role of disability rather than a continuing struggle to maximize his abilities. The adversary process may also motivate some employers or insurers to delay settlements in hopes that delay will put financial pressures on a disabled employee, forcing him to accept lower out-of-court settlements. ^{12/} The reasons for delays

^{11/} Recent studies by the State Agencies of New York and California where State funds operate in competition with casualty companies rank the State operations as being among the companies that provide the best services.

^{12/} *Compromise and Release Settlement*, National Commission Study No. 30, Russell, Louise. This study examines the arguments for and against the use of compromise and release settlements and finds little justification for this practice.

^{10/} Some of this apparent variation also is undoubtedly due to difficulty in obtaining data from the States that are mutually consistent and sufficiently disaggregated to permit valid comparisons.

need to be studied and their causes removed if practical and consonant with justice.

It is important to know the costs of the adversary procedure, as well as the distortions it may cause; i.e., delays in payments of benefits, acceptance of rehabilitation, and the inappropriateness of settlements. Equally important is evaluating the alternatives to an adversary system with the inquiry system used in Ontario, Canada, being perhaps the best known. It is characterized by an administrative adjudication of contested cases that virtually precludes access to the courts. An injured worker's lack of access to the courts may represent the loss of an important right. Nevertheless, this trade-off may be appropriate since the Ontario inquiry system appears to provide higher quality services at considerably lower costs. For example, both rehabilitation and the treatment of permanent partial disabilities seem to be handled well in Ontario.

By contrast, in many States, agency functions are very limited and often do not include medical evaluation, rehabilitation, or reemployment counseling. Primarily they serve as quasi-judicial bodies, adjudicating disputed claims. Once a decision is rendered, an agency may have no further interest in a case, and individual workers may be left to fend for themselves. Many State agencies do not even receive reports of accidents or illnesses in which no contest is involved. Improving system efficiency may actually require State agencies to perform additional tasks that will increase their total costs of administration.

Any system has problems, including the inquiry system. A purely administrative system may not adequately protect the rights of involved parties to due process. Also, the expanded functions of a workers' compensation agency may not work well in combination with other programs. Considerable study is needed to determine whether the apparent advantages of an "Ontario" system are real, whether such a system could be adapted to conditions in the United States, and what incentives would encourage States to adopt such a system.

The research will focus primarily on the

advantages and disadvantages of an inquiry system such as that used in Ontario or the system used by the Veterans' Administration. Would such a system adequately protect the interests of the parties concerned? What modifications would be required for successful operation in the United States? Which other elements of the Ontario system contribute significantly to its success? What alternative measures could be taken to minimize controversy and litigation?

Permanent Partial Disability. Permanent partial disability (PPD) awards account for a very large percentage of total workers' compensation indemnity payments -- in 1969-70, they were almost two-thirds of all indemnity payments (i.e., cash awards exclusive of payments for medical expense). They vary considerably in relative importance from State to State (from 39 percent in Maine to 80 percent in California) due to differences in benefits, maxima, and administrative policies. The distribution of permanent partial awards is numerically skewed toward injuries involving minor disabilities. The result is that for a given total of benefits funds, the amount available for more serious disabilities is reduced. Litigation over the seriousness of the disability is especially common in PPD cases.

If the problems of equity are not adequately dealt with, across the board liberalization of benefits, elimination of maxima, or other changes would probably entail large and unjustified increases in the overall costs of workers' compensation. In addition, serious questions of equity are raised by the State-to-State variability in benefits as a percentage of the total paid and the skewing toward minor disabilities. While schedules of awards may have eased administrative burdens, they may have led to over compensation. On the other hand, it may be that more serious disabilities have tended to be undercompensated.

The major costs and knotty problems of equity involved in PPD awards led the National Commission to recommend a comprehensive review of present and potential approaches to

them. ^{13/} One suggestion for exploration was to consider permanent partial benefits as consisting of two components, one encompassing the loss of bodily function (the "whole man" concept) and the other directed at loss of earning power. This approach is attractive both conceptually and from an equity viewpoint. Its major problem is the difficulty of implementation.

One approach to deal with the loss of bodily function which would also reduce the current broad variations among States, is through the use of the American Medical Association's "Guides to the Evaluation of Permanent Impairment." This would provide a rational and uniform basis for the evaluation of physical disability. However, conditions such as a "bad back" are still difficult to deal with.

Permanent partial disability with loss of earnings presents a much more serious practical problem. The occupational growth path of earnings must be projected, assuming that the injury had not occurred. This path of earnings would be compared to the actual earnings of injured workers, with the difference being the benefits payable. However, some adjustment might be necessary to ensure that workers have a sufficient incentive to seek both rehabilitation and employment.

In addition to the problem of what should be included in an award, there is the question of whether claims should be paid in a lump sum or periodically reassessed. Despite the difficulties of developing a reassessment system, it has a number of potential advantages. First, in minor disability cases, in which the injury did not permanently reduce earnings, benefits related to income loss would be ended once earnings returned to the pre-injury growth path. Second, the assessment would automatically pare down benefits as workers successfully readjusted to their new work situations. Third, employers would take greater interest in assisting the earnings recovery process in order to reduce their costs.

^{13/} *Compendium on Workman's Compensation, Chapter 9, and National Commission Report, p. 39*

Research will be supported into the loss of earnings associated with partial disabilities. Do other factors, such as age and occupation at the time of the injury, help to explain the losses of earnings associated with different partial disabilities? Should benefits vary over a set time path, representing an estimate of an average recovery period? Should benefit payments be reevaluated at intervals? What effects do different kinds and levels of benefits have on incentives to engage in rehabilitation or to seek employment?

Program Interrelationships. The National Commission discussed the relation between workers' compensation and other programs. ^{14/} It concluded that no major benefit would be derived by the merger of programs. However, there was not time for detailed analysis, and little attention was given to economies through closer coordination among programs.

Many programs, voluntary and mandatory, private and public, seek to protect workers against the medical expense of illness or injury, or the loss of income which results from temporary or permanent disability. With the expansion of fringe benefits and government programs, protection overlaps, and controversies develop over which apply in individual cases. Also, there are still major gaps between programs. These programs should be examined to see what efficiencies or improvements in benefits could be achieved by better coordination. Possibilities will be explored for improved coordination and interchange of knowledge with various emergency medical care systems, health care facilities, rehabilitation assistance resources, training and employment programs, and disability determination units.

^{14/} *The list of Federal statutes and programs that directly interface with State workers' compensation programs includes (1) Coal Mine Health and Safety Act, (2) Metal and Non-Metallic Mines Act, (3) Occupational Safety and Health Act, (4) Federal Employers' Liability Act, (5) Jones Act, (6) Federal Employees' Compensation Act, (7) Longshoremen's and Harbor Workers' Compensation Act (and related statutes), (8) Rehabilitation Act of 1973 and E.O. 11758, (9) Federal State Vocational Rehabilitation, (10) Unemployment Insurance/Temporary Disability Programs, (11) Employment Service/Reemployment of the Rehabilitated, and (12) Social Security/Old Age and Survivors Disability Insurance.*

Today, employee protection comes increasingly from private life, health, and accident insurance, or pensions, though these may supplement workers' compensation. Such plans may be sponsored by employers, negotiated between employers and employees (typically through collective bargaining), or provided by union management trust funds or mutual benefit associations. By and large, this additional protection stems from employees' demands, partly because of tax advantages gained by receiving "income" in the form of fringe benefits. Such negotiated supplements have sometimes provided employees with 24-hour coverage, family coverage, permanent partial indemnity, etc. A two-fold system has been evolving: a mandatory one providing for workers' compensation coverage and a voluntary one providing supplementary benefits. Better integration of the private and public benefit systems is needed. Workers' compensation, at least for the foreseeable future, appears to have a role that cannot readily be merged with other insurance programs. Development of the most efficient and effective relationship between workers' compensation and other social programs is increasingly a necessity.

The Federal Role: Policy Research

To undertake this major program of research, we recommend that the Federal government set up a select research unit within the inter-Departmental task force, drawing on experienced senior staff from the participating Departments and outside sources.

Parallel research may be supported by the National Science Foundation and various Departments working in close coordination with the research unit. Likewise, we hope that the States will join in this research effort.

We believe that this strategy of progressive improvements in workers' compensation will prove successful. The States can and will meet the challenge to improve their systems. Working together, we should be able to reach the intermediate goals by 1976 and also to gain the knowledge necessary to propose further changes which will make our Nation's workplaces safer and healthier, and significantly upgrade the recuperation of those who, despite our best efforts, became injured or ill in the course of their employment.

Table 1 — State Workmen's Compensation Laws Compared with Essential Recommendations
(Except Benefit Levels) of the National Commission 1283
(as of April 1, 1974)

| State | Recommendation ^{1/} | | | | | | | | | | | | |
|----------------------|------------------------------|-----|-----|-----|-----|-----|------|------|------|------|------|-----|-----|
| | 2.1 | 2.2 | 2.4 | 2.5 | 2.6 | 2.7 | 2.11 | 2.13 | 3.11 | 3.17 | 3.25 | 4.2 | 4.4 |
| Alabama | x | - | - | - | - | - | - | x | x | - | - | - | - |
| Alaska | x | x | x | - | x | - | - | x | x | x | - | x | x |
| Arizona | - | x | x | - | x | - | x | - | x | x | - | x | x |
| Arkansas | - | - | - | - | - | - | x | - | x | x | - | - | - |
| California | x | x | x | - | x | - | - | x | x | x | - | x | - |
| Colorado | - | x | - | - | x | - | x | x | x | x | - | x | x |
| Connecticut | - | x | x | - | - | - | - | x | x | x | - | x | x |
| Delaware | x | - | - | - | - | - | - | x | x | x | - | x | x |
| District of Columbia | x | x | - | - | x | - | - | x | x | x | - | x | x |
| Florida | x | x | - | - | x | - | - | x | x | x | - | x | - |
| Georgia | - | - | - | - | - | - | x | x | x | - | - | x | x |
| Hawaii | x | x | x | - | x | - | x | x | x | x | - | x | x |
| Idaho | x | x | - | - | x | - | x | x | x | x | - | x | x |
| Illinois | x | x | - | - | - | - | - | x | x | x | - | - | - |
| Indiana | - | x | - | - | x | - | x | x | x | x | - | x | x |
| Iowa | - | x | - | - | x | - | x | - | x | x | x | x | x |
| Kansas | - | - | - | - | - | - | - | - | x | - | - | - | - |
| Kentucky | - | x | - | - | x | - | x | x | x | x | - | x | x |
| Louisiana | - | x | - | - | - | - | - | - | - | - | - | - | - |
| Maine | - | x | - | - | x | - | - | x | x | x | - | x | - |
| Maryland | - | x | - | - | x | - | - | x | x | x | - | x | x |
| Massachusetts | - | x | x | - | - | - | - | x | x | x | - | x | x |
| Michigan | x | x | x | - | x | - | x | x | - | x | - | x | x |
| Minnesota | - | x | - | - | x | - | - | x | x | x | - | x | x |
| Mississippi | x | - | - | - | - | - | - | x | x | - | - | x | x |
| Missouri | - | - | - | - | - | - | - | - | - | - | - | - | - |
| Montana | x | x | x | - | x | - | - | x | x | x | - | x | - |
| Nebraska | x | x | - | - | x | - | x | x | x | x | x | x | x |
| Nevada | x | - | - | - | x | - | - | x | x | x | - | x | x |
| New Hampshire | - | x | x | - | x | - | x | x | x | x | - | x | x |
| New Jersey | - | x | x | - | x | - | x | x | x | x | - | x | - |
| New Mexico | x | - | - | - | - | - | x | x | x | - | - | - | - |
| New York | x | x | - | - | - | - | - | x | x | y | - | x | x |
| North Carolina | - | - | - | - | - | - | - | x | x | - | - | - | x |
| North Dakota | x | x | - | - | x | - | - | x | x | x | - | x | x |
| Ohio | - | x | x | - | x | - | - | x | x | x | x | x | x |
| Oklahoma | - | - | - | - | - | - | x | - | x | - | - | x | x |
| Oregon | x | x | x | - | - | - | - | x | x | x | - | x | x |
| Pennsylvania | - | x | x | - | x | - | - | x | x | x | - | x | x |
| Rhode Island | x | - | - | - | - | - | - | x | x | x | - | x | x |
| South Carolina | - | - | - | - | - | - | - | x | x | - | - | x | x |
| South Dakota | - | x | - | - | x | - | - | x | x | x | - | x | x |
| Tennessee | - | - | - | - | - | - | - | - | x | - | - | - | - |
| Texas | - | x | - | - | x | - | - | - | x | - | x | x | x |
| Utah | x | x | - | - | x | - | x | x | x | x | - | x | x |
| Vermont | - | x | x | - | - | - | x | x | x | - | - | - | - |
| Virginia | - | - | - | - | - | - | - | x | x | - | - | x | x |
| Washington | x | x | x | - | x | - | x | x | x | x | - | x | x |
| West Virginia | - | x | - | - | - | - | - | x | x | x | - | x | - |
| Wisconsin | - | x | - | - | x | - | - | x | x | x | - | x | x |
| Wyoming | x | x | - | - | - | - | x | - | x | - | - | x | x |
| Total Met | 22 | 36 | 15 | 0 | 28 | 0 | 19 | 45 | 49 | 37 | 4 | 41 | 36 |

x Law meets recommended standard.

- Law does not meet recommended standard.

^{1/} The essential recommendations, except for those dealing with benefit levels, are listed on page 14.

Essential Recommendations of the National Commission on State Workmen's Compensation Laws

- R2.1 Coverage by workmen's compensation laws be compulsory and that no waivers be permitted.
- R2.2 Employers not be exempted from workmen's compensation coverage because of the number of their employees.
- R2.4 A two-stage approach to the coverage of farmworkers. First, as of July 1, 1973, each agriculture employer who has an annual payroll that in total exceeds \$1,000 be required to provide workmen's compensation coverage to all of his employees. As a second stage, as of July 1, 1975, farmworkers be covered on the same basis as all other employees.
- R2.5 As of July 1, 1975, household workers and all casual workers be covered under workmen's compensation at least to the extent they are covered by Social Security.
- R2.6 Workmen's compensation coverage be mandatory for all government employees.
- R2.7 There be no exemptions for any class of employees, such as professional athletes or employees of charitable organizations.
- R2.11 An employee or his survivor be given the choice of filing a workmen's compensation claim in the State where the injury or death occurred, or where the employment was principally localized, or where the employee was hired.
- R2.13 All States provide full coverage for work-related diseases.
- R3.11 The definition of permanent total disability used in most States be retained. However, in those few States which permit the payment of permanent total disability benefits to workers who retain substantial earning capacity, the benefit proposals be applicable only to those cases which meet the test of permanent total disability used in most States.
- R3.17 Total disability benefits be paid for the duration of the worker's disability, or for life, without any limitations as to dollar amount or time.
- R3.25 Death benefits be paid to a widow or widower for life or until remarriage, and in the event of remarriage two years' benefits be paid in a lump sum to the widow or widower. Benefits for a dependent child be continued at least until the child reaches 18, or beyond such age if actually dependent, or at least until age 25 if enrolled as a full-time student in any accredited educational institution.
- R4.2 There be no statutory limits of time or dollar amount for medical care or physical rehabilitation services for any work-related impairment.
- R4.4 The right to medical and physical rehabilitation benefits not terminate by the mere passage of time.

Table 2 — State Workers' Compensation Laws Benefit Levels Compared to the Essential Recommendations of the National Commission (as of April 1, 1974)

1285

| States | TTD | | PTD | | DEATH | |
|----------------|----------------------|-----------------|-----------------------|------------------|-----------------------|------------------|
| | R3.7 2/3 of Wages | R3.8 Maximum | R3.12 2/3 of Wages | R3.15 Maximum | R3.21 2/3 of Wages | R3.23 Maximum |
| Alabama | X | - | X | - | 37%** | - |
| Alaska | 65% | X | 65% | - | 35%** | X |
| Arizona | X | X | X | X | 35%** | - |
| Arkansas | 65% | - | 65% | - | 35%** | - |
| California | X | - | X | - | NA | - |
| Colorado | X | - | X | - | X | - |
| Connecticut | X | X | X | X | X | X |
| Delaware | X | - | X | - | 50%** | - |
| D.C. | X | X | X | X | 50%** | X |
| Florida | 60% | - | 60% | - | 60% | - |
| Georgia | X | - | X | - | X | - |
| Hawaii | X | X | X | X | 50%** | - |
| Idaho | 60%* | - | 60%* | - | 45%** | - |
| Illinois | 65%* | - | 65%* | - | 65%** | - |
| Indiana | X | - | X | - | X | - |
| Iowa | X | X | X | X | X | X |
| Kansas | X | - | X | - | NA | - |
| Kentucky | 55%* | - | 55%* | - | 50%** | - |
| Louisiana | 65% | - | 65% | - | 32½%** | - |
| Maine | X | X | X | X | X | X |
| Maryland | X | X | X | X | X | X |
| Massachusetts | X | - | X | - | NA | - |
| Michigan | X | - | X | - | X | - |
| Minnesota | X | - | X | - | 40%** | - |
| Mississippi | X | - | X | - | 35%** | - |
| Missouri | X | - | X | - | X | - |
| Montana | X | X | X | X | X | X |
| Nebraska | X | - | X | - | X | - |
| Nevada | X | X | X | X | X | X |
| New Hampshire | X | X | X | X | X | X |
| New Jersey | X | X | X | X | 50%** | X |
| New Mexico | X | - | X | - | 50%** | - |
| New York | X | - | X | - | 40%** | - |
| North Carolina | X | - | X | - | X | - |
| North Dakota | NA | - | NA | - | NA | - |
| Ohio | X | X | X | X | X | X |
| Oklahoma | X | - | X | - | NA | - |
| Oregon | X | X | X | X | NA | - |
| Pennsylvania | X | X | X | X | 51%** | X |
| Rhode Island | X | - | X | - | X | - |
| South Carolina | 60%* | - | 60%* | - | 60% | - |
| South Dakota | X | - | X | - | X | - |
| Tennessee | X | - | X | - | 50%** | - |
| Texas | X | - | X | - | X | - |
| Utah | X | X | X | X | X | X |
| Vermont | X | - | X | - | 50%** | - |
| Virginia | X | - | X | - | X | - |
| Washington | 60% | X | 60% | X | 60%** | X |
| West Virginia | X | - | X | - | NA | - |
| Wisconsin | X | - | X | - | 50% | - |
| Wyoming | X | - | NA | - | NA | - |
| Total Meeting: | 41 | 17 | 40 | 16 | 21 | 14 |

X = 66 2/3% or more.

* The objective for minimum benefit levels recommended by the National Commission and endorsed by the Administration is two-thirds of the employee's wage up to two-thirds of the State's average weekly wage. 1/ This objective is based on the benefits paid to worker irrespective of the number of dependents. In these States additional benefits are paid to the employees for dependents to the extent this amount does not exceed the maximum weekly benefit.

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1/ This maximum rises to 100% in 1975.

(NEVADA)

Exclusive State Funds Pay Off in Benefits 1286

Excerpts of testimony in May, 1974, by IUD Secretary-Treasurer Jacob Clayman before the U.S. Senate Subcommittee on Labor on the National Workmen's Compensation Standards Act of 1973 (S.2008).

Over the years the single, insistent note of employers resisting liberalization of workers' compensation has been "we cannot afford it" and of course the basic cost of any social program is a relevant factor. Unfortunately, employers and state legislatures have not seriously examined the great potential at hand which could make enormous sums of money available for benefits without additional employer financial input.

I am not talking about magic. I refer to a well-known mechanism, the exclusive state fund. In the years 1962-66, considering benefits as a percentage of premiums earned, private insurance companies channeled 64 cents of every premium dollar received by them into worker benefits. The balance remained with the insurance companies.

During this same period, 78 cents of every premium dollar paid to competitive state funds went to worker benefits, and 95 cents of every dollar received by exclusive state funds found their way into insured worker benefits—compensation and medical care.

And therein lies the heart of the problem—the

major part of the nation's worker compensation system has tied itself to an inordinately expensive system of implementing the law, the utilization of private insurance. This system is built on a gross waste of a part of the premium dollar on insurance company profits, acquisition costs, lobbying, etc., none of which has social or economic worth to injured workers, for whom, presumably, the entire system was built.

I believe that it makes profound sense that the exclusive state funds concept be universalized in this country and that the fantastic savings inherent in such action be ploughed into additional worker compensation benefits. The difference between 95 cents and 64 cents, which marks the gap between exclusive state funds and private insurance companies costs, adds up to the startling figure of 31 cents. Obviously these statistics are not precise but they indicate a cost savings on the part of exclusive state funds of at least 20 cents per premium dollar or as high as 30 cents per premium dollar.

In 1969, private insurance companies received \$3,238,900,000 in premiums. (There are some changes in the current figures but they do not change the import of my observations.) Twenty percent of this enormous sum would amount to almost \$650 million. Thus, the \$1,641 billion paid by private insurance companies in the form of worker benefits could readily have been raised by \$650 million to \$2,291 billion, an increase of roughly 40 percent. One might argue over these figures to the last penny, but I feel confident that they do accurately indicate the magnitude of the possibilities.

I urge that, at long last, this Committee grasp the nettle, think the unthinkable, and face up to the need for adopting the exclusive state funds concept for the entire country.

I draw the Committee's attention to a profound observation made a number of years ago by Arthur J. Altmeyer, former U.S. Social Security Commissioner, who was worried about the state workers' compensation programs which were under the influence of the private insurance industry as he wisely observed:

"... most of the shortcomings have grown out of the individualistic concepts involved in private financing... I believe until we move a considerable distance in the direction of the states themselves assuming responsibility either directly through exclusive state funds or through a

statewide mutual insurance company we shall find it impossible not only to provide adequate benefits to all workers and adequate protection to all employers but we shall find it impossible to carry on effectively as we should in accident prevention and rehabilitation."

I know that it is not easy or simple to dislodge the insurance industry from its firmly entrenched position in the workers' compensation field and yet until this great and grievous waste is eliminated the workers' compensation system will find it more difficult to realize its early promise to those who have and will be victims of our industrial process...

I made the point in my original testimony that one clear and obvious method of raising a goodly share of the additional monies necessary to provide the monetary liberalizations in this bill was to require that the various states establish an exclusive state workers' compensation fund. The savings would be huge.

A number of years ago (1959), I wrote an article in the Rocky Mountain Law Review on this issue, particularly as it applied to the exclusive workers' compensation fund operating in Ohio. I came to the conclusion that the entire overhead costs for the Ohio state exclusive workers' compensation fund was 4 1/2 percent, while in other states the overhead costs, acquisition costs (broker's commission), lobby expenses, profits, etc., spent by private insurance companies operating there was anywhere from 30 percent to 40 percent. I pointed out that it has been demonstrated by the Somers in their workers' compensation masterpiece *Workmen's Compensation* (1954) that "since the later 30s benefits have averaged about 55 percent of the amount which employers paid in premiums."

Of course there have been some changes in workers' compensation costs since the above article was written; they have gone down somewhat but not enough to change the essential thrust of my 1959 article.

The National Council on Compensation assumes that insurance companies need approximately 39 percent of the premium dollar to pay expenses and make a modest profit when handling small employer accounts. For example, Minnesota, a not untypical private insurance company state, spells out the permissible expense components for insurance companies involved with small employers. It is as follows:

| | Percent |
|---|---------|
| Acquisition and field supervision expense (sales) | 17.5 |
| General administration expense | 8.4 |
| Claims adjustment expense | 8.2 |
| Taxes | 2.7 |
| Profit and contingencies | 2.5 |
| Total | 39.3 |

Such a gigantic waste! Naturally, the percentage of cost decreases as employers' premiums grow larger. For employers in 1970 with annual premium of more than \$100,000, the expenses and profit loading came to 30 percent in nonparticipating stock insurers, 25.2 percent of participating stock insurers, and 24 percent for mutual insurers.

Compare these expense figures of 1970 with that of exclusive state workers' compensation funds in the same year:

| Exclusive funds: | 1962-66 | 1970 |
|---------------------|---------|------|
| Nevada | .12 | .11 |
| North Dakota | .09 | .08 |
| Ohio | .04 | .04 |
| Washington | .11 | .14 |
| West Virginia | .05 | .04 |
| Wyoming | .10 | .07 |

Thus, a comparison of exclusive state workers' compensation fund expenses amounts to 4 percent in both Ohio and West Virginia, 4 cents of each premium dollar, while the lowest insurance company expense ratio was 39 percent for small employers and 24-25.2 percent for larger employers, all of which amply demonstrates a startling dimension of the cost differential.

In short, there is at least a difference of 20 percent in needless overhead costs between exclusive state funds and private insurance companies. Thus, the estimate in my original testimony of a savings of \$650 million based on 1969 premiums to private workers' compensation insurance companies by simply utilizing the exclusive state fund concept, was a conservative reckoning.

Let me add a few more vital statistics which reveal as they startle. New Jersey is a private insurance state in the field of workers' compensation. In a Final Report on the Workmen's Compensation System released by that State's Commission of Investigation in January, 1974, a chilling observation was made, but a factual one:

"Finally, the most tragic aspect of the Workmen's Compensation system in the State is the small percentage of premium which ultimately inures to the benefit of the worker. Despite the fact that over \$1.2 billion was credited to premium income by insurance carriers from 1967-1971, only 41 percent or \$502,808,716 ultimately found its way to the person for whom the system was formed, the worker.

\$499 million was retained by insurance carriers as operating expenses or returned to employers in the form of dividends or discounts."

Contrariwise, the State of Washington, which has an exclusive state workers' compensation fund reported for the year 1970:

"For every \$100 collected in premiums, the Department paid out approximately \$102.50 in benefits to workers."

This, of course, was made possible by lower expenses; the state is not interested in making profits, or expending large sums for lobbying, or contributing precious premium dollars to acquire new business. In addition, the state places its funds, both current and reserves, in income-bearing investments which return their increments to workers in the form of benefits.

In another exclusive state workers' compensa-

tion fund, West Virginia, the June 30, 1973 annual report and financial statement of the West Virginia Workmen's Compensation Fund relates:

"From its organization in 1913 to the present the Fund has paid benefits totaling \$531,595,394.90. When the reserve for outstanding claims is added to this amount, the total is \$687,976,606.90. This is \$75,231,865.32 more than the total premium received by the Fund and reflects the fact that for every dollar employers have paid in premiums to the Fund, the Fund has paid, or will pay, to disabled employees and dependents, one dollar, twelve and three-tenths cents."

Nowhere can one find a similar result in any of the private insurance companies structures. This cannot and does not happen.

I believe that this brief supplement to my original testimony makes the case clear that most states in the U.S. have seriously neglected their responsibilities to both workers and employers by pursuing a socially negative and wasteful policy in surrendering the basic administration of workmen's compensation to private insurance companies. History and these statistical facts have joined in proving this approach as not only wrong but deeply harmful to injured workers with no meaningful benefits to employers.

The area of workers' compensation is a kind of tortured ground where we find human travail and suffering commonplace, family frustrations, economic dislocation, often psychological trauma. In short, an area of such overwhelming call upon our individual and collective consciences that the private profit of a few insurance companies stands infinitely miniscule as we view the human condition. The tragic waste of resources by private insurance companies in workers' compensation which could be ploughed into hope, aid and succor to hundreds of thousands of injured and maimed workers in America, in my humble judgment can be rightfully labeled as indecent and perhaps even obscene.

S.2008 potentially represents a breakthrough for social and economic justice of great and heart-warming proportions. We urge the Committee to take that extra necessary step and mandate as a minimum federal standard the creation of exclusive workers' compensation funds. It will serve workers best that is clear, but in the long run it will redound to the benefit and credit of business and industry as well as the total community. □

ASSEMBLY COMMERCE

58TH SESSION

AS OF 5-6-75

Bills

| | |
|----------------------------|-----|
| Assembly Bills | 124 |
| Assembly Joint Resolutions | 4 |
| Senate Bills | 23 |
| Senate Joint Resolutions | 1 |
| Assembly Concurrent Res. | 1 |

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Passed by Committee

| | |
|----------------------------|----|
| Assembly Bills | 61 |
| Assembly Joint Resolutions | 4 |
| Senate Bills | 12 |
| Senate Joint Resolutions | 1 |
| Assembly Concurrent Res. | 0 |

78

Indefinitely postponed

| | |
|----------------------------|----|
| Assembly Bills | 11 |
| Assembly Joint Resolutions | 0 |
| Senate Bills | 0 |
| Senate Joint Resolutions | 0 |
| Assembly Concurrent Res. | 0 |

11

Hold for consideration

| | |
|----------------------------|----|
| Assembly Bills | 23 |
| Assembly Joint Resolutions | 0 |
| Senate Bills | 1 |
| Senate Joint Resolutions | 0 |
| Assembly Concurrent Res. | 1 |

25

Bills scheduled for hearing

| | |
|----------------------------|---|
| Assembly Bills | 0 |
| Assembly Joint Resolutions | 0 |
| Senate Bills | 0 |
| Senate Joint Resolutions | 0 |
| Assembly Concurrent Res. | 0 |

0

Bills not scheduled for hearing

| | |
|----------------------------|----|
| Assembly Bills | 29 |
| Assembly Joint Resolutions | 0 |
| Senate Bills | 9 |
| Senate Joint Resolutions | 0 |
| Assembly Concurrent Res. | 0 |

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