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Presentation to
GOVERNOR'S TASK FORCE ON WORKERS' COMPENSATION
Helena, Montana
March 10, 1992

Recent Reforms in the Oregon Workers' Compensation System

These remarks focus on the issues, process and outcome of the 1990 Oregon Governor's Task Force on Workers' Compensation and the 1990 Special Session of the Oregon Legislature, and why and how labor and business were able to join forces to enact the most significant change in Oregon's law since 1965, when Oregon became a three-way state. Many of the 1990 reforms have proven difficult to administer and I will touch on those difficulties in my remarks. I will also touch on reforms made in 1987 which helped set the stage for the 1990 reforms.

The materials in your packets provide a great deal of information about the characteristics of the Oregon system. One note of caution: most of the premium and claims characteristics data reflects time period before any effects of the 1990 special session were felt. The impact of those changes are only now beginning to emerge.

I have also provided copies of our selected administrative rules which carry out the reforms. Due to the bulk of that material, I have have one set for the committee chair, one set for the regulatory body and an additional set for copying if desired.

I will also address some of the reasons Oregon has had double digit rate reductions in 1990 and 1991, and why we expect another rate reduction in 1992.

My remarks are colored by the position I hold as manager of the Compliance Section of the Workers' Compensation Division, which has the primary responsibility for enforcing the Oregon workers' compensation law. Those we regulate include insurers, self-insured employers, claims examiners, vocational counselors, employers, non-complying employers, managed care organizations, and medical providers. *Frank Adams*

Much of the substance of my remarks has been liberally adapted or stolen outright from a paper prepared in 1990 by Mike Manley of our Information Management Division and was delivered at a conference at Rutgers University that same year.

BACKGROUND

The Oregon Workers' Compensation system covers about 1.3 million workers and handles approximately 150,000 claims annually, of which about 40,000 involve indemnity (time-loss) benefits. Coverage can be obtained through the SAIF Corporation, our competitive state fund; through private insurance; or through self insurance.

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SAIF Corporation is the largest insurer and writes about 30 percent of coverage, while about 20 percent of the market is self-insured. Private insurance provides coverage for about half the Oregon market. The largest private insurer, Liberty Northwest, writes about 40 percent of the private market while another 45 carriers each write over \$1 million in premium annually. Until recently, the Assigned Risk Pool was not a significant feature of the Oregon market.

Oregon was a very high cost state. Prior to 1990, our own studies placed us anywhere from fifth to eighth highest nationally in overall employer costs. This was not surprising considering the high claim frequencies in Oregon, and the general high cost of health care in Oregon. Oregon ranked highest among NCCI states for frequency of permanent partial and medical claims, second for temporary total, third for permanent partials and eighth for fatalities.

Compounding the general unhappiness with the Oregon system prior to reform were the low maximum benefits paid for scheduled Permanent Partial Disability. Oregon's maximum for an amputated arm, for example, was just \$27,840, which put Oregon at or near the bottom of any comparisons with the statutory maximums of other states. Although these low maximums for scheduled awards were not accurate descriptors of typical benefits received, they were repeatedly pointed to as symptomatic of the system's inadequacies.

Oregon also had a high overall frequency of claims. The US Bureau of Labor Statistics put Oregon at about 40 percent above the national incidence rate of lost workdays. NCCI put Oregon at about 50 percent above the national median for frequency of total claims. Three theories were advanced to explain the high claim frequency: a lack of safety enforcement, a more hazardous industry mix and a liberal notion of compensability. The third explanation seemed more likely since it better explained Oregon's high premium rates and frequencies in relatively non-hazardous classifications.

Oregon courts have traditionally interpreted the law liberally in the worker's favor. In fact, the rules of the Workers' Compensation Board which governs both the initial hearings and Board review, specifically provide that the law shall be liberally construed in the workers' favor. The result has been a body of case law which significantly broadened the scope of compensability. Compensability has been a very difficult issue for legislators to address because it requires open acknowledgment that some claims ought not to be compensated.

While litigation in Oregon is reportedly less frequent than in some states, requests for hearings doubled between 1980 and 1989, despite no increase in total claims. About two-thirds of unscheduled PPD cases were litigated, with the claimant successful in obtaining an increased award about 85 percent of the time. Such a success rate resulted in many parties equating the process of litigating with the result of increased benefits. A corollary was that claimant attorneys perceived not appealing a case as tantamount to malpractice.

Oregon's system has a strong regulatory agency in the Department of Insurance and Finance, and especially the Workers' Compensation Division. WCD is comparatively large and adequately funded, and receives substantial support from other divisions of the Department of Insurance and Finance. Claims oversight is intensive with both up-front monitoring, auditing and sanctions for failure to process claims in accordance with the statute and rules. Claims are tracked and monitored through a computerized tracking system which allows monitoring and auditing of insurer performance.

Oregon's WCD also has an unusual feature, the Evaluation Section. Evaluation Section's role is to evaluate claims for extent of permanent disability, following standards for rating impairment set forth in administrative rules. Evaluation Section's determinations in effect establish a minimum level of entitlement to permanent partial benefits which insurers typically pay without legal controversy. However, this system and the subsequent litigation over extent-of-disability issues evoked considerable controversy.

In 1987 the Oregon Legislature enacted some modest reforms which served as a foundation for many aspects of the 1990 reform. In 1987, Oregon's economy was still emerging from the recession of the early 1980s. With growing employment came growing workers' compensation claims and a series of premium rate increases which saw average rate levels grow by over 70 percent in a three-year span. Oregon had a new governor, a Democrat with pro-business credentials, who had been elected on a platform of economic comeback. There also was a widely held feeling that something was fundamentally wrong with the workers' compensation system.

To build consensus before the Legislature convened, the Governor formed a "secret" advisory committee to study the problem. The committee was composed of lobbyists for business, labor, and trial attorneys; the chairmen of the House and Senate Labor Committees; and two other politicians not otherwise directly involved. At about the same time, a study was done by Consultant John Lewis, whose report helped to focus issues for the committee and deserves some credit for the changes enacted in the 1987 legislative session.

Among those changes were much tighter eligibility requirements for vocational rehabilitation, restricted ability to reopen claims more than 5 years old, a new assistance fund to encourage re-employment of injured workers, a modest increase in scheduled PPD benefits, increased penalties for safety violations, and an enhanced safety consultation function. The definition of compensable mental stress was tightened.

To reduce and streamline litigation the legislature mandated dispute resolution conferences and shortened timelines for requesting and scheduling hearings. It further limited the criteria to be used in rating permanent and mandated that the rating standards be used at all levels of appeal, whereas previously they had not been applied in appeal. The standards were to be used unless it could be proved by clear and convincing evidence that the standards rating did not reflect the true extent of disability.

These changes were implemented in late 1987 and early 1988. While at least one expected premium rate increase was averted by the reforms, no actual reduction was realized. By 1989, another rate increase was requested and granted. However, the general mood in the 1989 legislative session was that workers' comp had already been dealt with. Some consternation was caused by the SAIF Corporation, Oregon's state fund, which revealed it was losing money at a rate of \$1 million per week. SAIF announced a major internal restructuring and revised its claims management in an attempt to reduce its claim costs. SAIF executives testified to the legislature that more drastic measures would be necessary in the absence of further reform. Nevertheless, no consensus could be reached.

In the summer of 1989, SAIF announced a plan to cut its losses, in part by canceling most of the employers in the minimum-premium category, about 15,000 in all. SAIF wrote about 30 percent of the workers' compensation market overall, but was virtually the only active insurer of small employers. The prospect of these small employers obtaining coverage in the voluntary market was dim. It was clear that many would fall into the Assigned Risk Pool or be forced out of business. Furthermore, the cancellations were phased in on a quarterly basis, stretching the furor out over several months and creating waves of constituent complaints which individual legislators were powerless to fix. Press coverage of the cancellations was heavy.

The cancellations greatly heightened the atmosphere of crisis which spurred further reform. Reactions among legislators were predictable and diverse. A group of Republican legislators proposed an extensive package of reforms which was expected to produce considerable cost savings. This was dismissed by most Democratic legislators as draconian. Others continued the search for more palatable (and largely cosmetic) reforms, while other factions denied the existence of serious problems.

In December 1989, Governor Goldschmidt appointed an advisory committee and asked that they negotiate a strategy to control the costs of the workers' comp system. The Committee consisted of seven representatives from organized labor, and seven business representatives. He excluded insurers (though some on the business side were self-insurers), medical providers, rehabilitation firms and lawyers for either side.

On April 11, the committee announced it had reached agreement. A crucial endorsement came from the Oregon AFL-CIO, whose executive board voted to support the bill by a three-fourths majority. Most business groups supported the bill strongly. Leading the opposition were chiropractors, trial attorneys and some labor unions.

Initially, the committee proposed there be no changes to its agreed bill; however, it became clear that the legislature would feel unacceptably constrained by this procedure. Many Democrats were smarting from having been outmaneuvered by a governor from their own party. Thus, when it became clear that the bill would have a reasonable likelihood of passage in a special

session, a legislative conference committee was convened to make technical adjustments to the bill. The committee compromised on some features in order to make the bill more palatable to various groups. In particular, the restrictions on chiropractors were toned down compared to those of original drafts. Finally, the governor's committee gave its blessing to the amended bill, the special session was convened and the legislature passed Senate Bill 1197.

THE 1990 REFORM - SB 1197

SB 1197 was very broad in scope and affects many areas of significance. Not all the provisions listed here were actually contained in the bill itself; some aspects were acted upon later by an interim legislative board. However, all are considered to be part of the negotiated reform package.

Workplace Safety and Health

A major budget increase for the Oregon Occupational Safety and Health Division provided 40 percent more enforcement staff. Staffing for consultation services for employers were also significantly increased. Existing provisions in the law requiring workplace safety committees were strengthened. Safety committees are required for employers with ten or more employees. Smaller employers in certain hazardous classifications are required to have committees.

Compensability

A compensable injury must be established by medical evidence supported by objective findings. Objective findings includes both "hard" findings such as atrophy, and "soft" findings such as range of motion. A case is currently pending in the Court of Appeals which should give further definition to the term.

Consequential or pre-existing conditions exacerbated by the compensable injury are only compensable when the original compensable injury is the major contributing cause of the condition. Injuries incurred during recreational or social activities primarily for the worker's personal pleasure are not compensable.

A compensable aggravation can only be established by medical evidence supported by objective findings. Some presumptions of compensability which had been established in case law were removed. If the major contributing cause of the aggravation is an injury outside the course and scope of employment, the aggravation is not compensable.

The bill extended the time for an insurer to accept or deny claims from 60 to 90 days from notice of the claim. This provision was supported by labor as a means of minimizing "protective" denials issued by insurers unable to investigate claims adequately within the 60-day limit. An accepted claim may later be denied (AKA "back-up denial") within two years, reversing case law, if "clear and convincing" evidence is obtained that the claim is not compensable.

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For the first time in Oregon, "compromise and release" agreements are permitted for accepted claims. Medical care is the only benefit which cannot be released. Agreements must be approved by the Workers' Compensation Board, and are subject to a 30-day "cooling off" period in which the claimant can request that the agreement be disapproved. Administrative rules of the Workers' Compensation Division define the terms and conditions under which a compensable claim may be settled.

Medical Benefits

The bill permits insurers to contract for medical services with Managed Care Organizations (MCOs). The MCO must include all types of health-care providers and the injured worker may choose from the providers within the MCO. An exception is provided for workers with family doctors who are otherwise qualified to be attending physicians. The Managed Care Organization must provide methods of peer review, utilization review, quality assurance, and establish cooperative programs for early return to work of injured workers. There are currently nine certified MCOs in Oregon, but only a small number of insurers have contracts with them. Some have yet to land a contract.

For providers outside MCOs, the director may set standards for treatment and utilization of medical services. Generic drugs are required where appropriate.

The definition of "attending physician" has been narrowed to medical doctors and doctors of osteopathy. Non-attending physicians, such as chiropractic and naturopathic physicians, may provide services for 30 days or 12 visits, whichever comes first. Thereafter, the authorization of an attending physician is required for further treatment (note that chiropractors and naturopaths may be attending physicians within a managed care organization).

Palliative medical care is no longer compensable except under limited circumstances. Decisions on contested medical issues are to be handled administratively by a panel of physicians under the aegis of the Workers' Compensation Division, instead of litigating these issues as in the past.

Temporary Disability (Time Loss) Benefits

Time loss benefits may be discontinued upon any of the following events: the worker returns to regular or modified work; the worker's physician approves a return to regular work; or the worker's physician approves a return to modified work and a written offer of modified is refused; or the worker is incarcerated for the commission of a crime.

If the worker's condition is medically stationary, the insurer may close the claim or request the Evaluation Section to do so. This should reduce overpayments of time-loss benefits.

Also, an administrative process has been established to award penalties for untimely benefit payments, where that is the sole issue.

Permanent Partial Disability (PPD) Benefits

While many elements of the process by which PPD is awarded predate the reform bill, loopholes and ambiguities kept the process less effective than it might have been. Once implementation is complete, it is hoped only a small minority of PPD cases should feel the need to litigate their level of entitlement to benefits. Determinations and subsequent benefit payments will be prompt, often within one month of the medically stationary date. Frictional costs for adversary medical opinions, investigations, attorney fees, and the administrative cost of adjudication should drop dramatically, permitting both savings to employers and increasing benefit dollars actually received by claimants.

SB 1197 mandates a system of mandatory reconsideration by the Workers' Compensation Division if the initial disability rating is questioned. This reconsideration must occur prior to any request for hearing. New evidence may be introduced and the record can be corrected at this level. If the medical impairment rating is questioned, the department appoints a neutral "medical arbiter" to assess impairment. This is the final medical evidence admissible at any level.

The bill provides that ratings at appellate levels use the claimant's condition as of the date of the reconsideration. The loophole of "clear and convincing evidence" was eliminated, although a new provision of the law permits adoption of an emergency rating rule when an impairment is encountered which cannot be rated within the standards.

In the area of scheduled PPD benefits, what is probably the largest single benefit increase in the state's workers' compensation history was granted. Benefits for all scheduled injuries were increased by 110 percent, bringing Oregon into the middle tier of states for these benefits. Unscheduled benefit levels were not changed, although an existing provision in the statute permits money saved through the implementation of PPD standards to be applied to increasing unscheduled benefit levels.

Some parties, notably claimant attorneys, characterize the process as arbitrary and mechanistic and are actively seeking to dismantle this element of the reforms in the 1993 legislature. Coincidentally, I'm sure, the plaintiff bar has found this area of the law less lucrative. However, we believe the promptness of benefit delivery and potential for increased benefits outweigh the purported advantages of a litigious system, with its attendant delays and high overhead costs.

Rehabilitation and Reinstatement

Injured workers have the right to reinstatement to their former position if the position exists, even if a replacement worker had filled the position in the injured worker's absence. This right is retained for three years from date of injury. Exemptions are made for employers with fewer than 20 workers. Reinstatement rights also terminate if the worker is determined physically incapable to return, receives vocational retraining, refuses modified work, or was working in a seasonal job of less than six months' duration.

A new fund, the Reemployment Assistance Reserve, was established to aid workers whose permanent disability prevents their return to regular work. This replaces two existing special funds financed through supplemental employer/employee cents-per-day contributions. Eligible workers receive identity cards notifying potential employers of their "preferred worker" status. Employers hiring these workers will be exempted from premiums for up to three years; claim costs will be reimbursed from the fund to the insurer.

The Process of Reform

A number of factors contributed to the success of the reform process. First, the negotiating committee was composed exclusively of labor and management. The governor made it clear that these were the parties the workers' compensation system was created to serve. Both groups negotiated for its own interests and neither sought to protect the service providers which had been traditional allies in previous legislative battles.

The committee negotiations were kept private. Committee members refused to discuss specific proposals publicly until the entire package had been negotiated. This permitted the committee's product to be presented as a cohesive whole, rather than be put forth as isolated proposals which could be attacked piecemeal. It also precluded public posturing by the committee members, which would have made consensus impossible.

Members of the committee brought considerable expertise to the issues. On the labor side, several officials were already well versed in the details of the system. The co-chair on the labor side, an official from the construction trades, was also a state representative who had already invested a great deal of time learning about the system. On the employer side, several committee members administered workers' compensation programs for self-insured employers. This brought an invaluable perspective from inside the day-to-day process of claims management. Thus, the final package was focused on substantive issues to a remarkable degree.

A final advantage the committee had was that the Oregon workers' compensation system is well researched and documented. Oregon has made a long-term commitment to tracking, researching, and reporting on workers' compensation issues, with the result that analytical and statistical expertise was available within a neutral body, the workers' compensation administrative agency, which minimized the need to rely on the advice of interested parties such as insurers or the trial lawyers. This also made it easier to use factual data to counter objections to the bill based on anecdotal evidence.

The committee felt strongly enough about the success of the process that the reform bill institutionalized the committee in a standing oversight role for the workers' compensation system. The Management-Labor Advisory Committee is a standing committee which advises the director on workers' compensation issues.

UPDATE

The reform legislation of 1990 and minor changes made in the 1991 session have been implemented. The effect of the 1990 changes will not be fully felt until 1993-94, when the full impact on rates will be felt.

Despite the fact that the double digit rate reductions of 1990 and 1991 came after the enactment of SB 1197, only a very small portion of the 1991 reduction is attributable to that bill. The balance of the reductions are attributable to the modest 1987 reforms, and to substantially improved employer and worker safety practices and improved loss control. In short, Oregon's employers and workers have more to do with the current favorable trend than any other single factor.

For 1992, we expect to see a single digit rate reduction, but the likely amount of that reduction is not now known.

Some areas of the reforms have been difficult to administer. These include managed care and the reconsideration process and in particular. There are now nine managed care organizations certified of which only two have landed substantial contracts with insurers to provide managed care services. In rural parts of the state there is little incentive for medical providers to join managed care organizations since they have captive markets and often more patients than they can handle.

The reconsideration process suffers because an inordinate amount of our time has been taken by court battles and major attempts by claimants attorneys to flood the reconsideration process with challenges in order to destroy its viability, an end they openly avow they seek.

* * *

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Comp panel says it will beat deadline (Blom, Eric) (Portland Press Herald, 5/25/1992) ●
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FILE

**A POLICY PAPER
ON
WORKERS' COMPENSATION REFORM**

**Presented to the
Workers' Compensation Blue Ribbon Commission
May 6, 1992
by the
Maine Council of Self-Insurers**

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INTRODUCTION

Self-insurance represents one of the few aspects of Maine's workers' compensation system that is generally considered to be working. Furthermore, it represents a growing segment of Maine's insurance market. Today, self-insurers cover in excess of 40% of Maine's risk as measured in premium and, if current trends continue, the self-insurance share will likely exceed 50% within a year. Self-insurance is most prominent in the public sector but it is also common in manufacturing, transportation, utilities, and retail and wholesale trade.

There are now twelve group self-insurers, which is up from two just a couple of years ago. Several of these new groups have considerable potential to expand. It is believed that as many as a half dozen other groups are now being created. The importance of this trend is that group self-insurance offers the only option for most employers to pursue self-insurance.

At present, seven to eight hundred employers self-insure out of over 27,000 employers needing coverage. Most of those self-insuring belong to the two groups that have been in existence for several years. Roughly a third of Maine's workforce is covered by self-insurance.

The success of self-insurance is measured by lower costs, improving risk management experience and better claims handling practices. In relation to their share of the risk, self-insurers experience less loss time incidence than insured employers. Furthermore, over time, the experience rating of self-insurers has been declining. Recent testimony in the workers' compensation rate case revealed that self-insurers are paying less than their insured counterparts in legal expenses and administration. That testimony also revealed overcharging of insured employers compared to self insureds due to faulty cost data.

On behalf of the self-insurance community, the Maine Council of Self-Insurers is committed to promoting best management practices and responsible financing of risk for the sake of minimizing employee and employer hardship within the workers' compensation system. The Council recognizes that these efforts alone are not sufficient to bring Maine's comp costs down to a reasonable level. Therefore the Council is also supportive of specific legislative changes.

The presentation which follows sets forth the perspective of self-insurers on how they would prefer to address the problems inherent in Maine's workers' compensation system. In brief, the Council favors granting all employers the opportunity, incentive and capacity to effectively manage their workers' compensation liability and the Council seeks a less confrontational approach to making Maine's comp system work.

AN ALTERNATIVE POLICY RESPONSE

The Council proposes that the state pursue four objectives with respect to workers' compensation reform.

1. Allow employers the option to secure coverage through self-insurance, insurance with deregulated rates or a residual market where employers jointly own and manage their liability without risk sharing by insurers or self-insurers.
2. Create the tools needed to effectively manage existing and future workers' compensation liability with particular attention given to safety, return-to-work, medical management and conflict avoidance/resolution.
3. Maximize opportunities to resolve historically contentious issues in a non-confrontational manner.
4. Establish a constructive labor-management environment within the workers' compensation system.

Objective 1 - Coverage Options: Self-Insurance, Insurance and Residual Market

Self-insurers wish to preserve and enhance the opportunity for employers to secure coverage through self-insurance. The Maine Legislature has been very responsive to this interest. Therefore, further changes to self-insurance law are not requested. Attempts to have self-insurers assume the liabilities of other employers will be vigorously opposed.

Self-insurers recognize the importance of restoring a healthy insurance market. Clearly, not all employers can access the self-insurance option. The regulation of rates and the fear of residual market assessments are believed to be the two greatest impediments to restoration of a healthy insurance market. Therefore, self-insurers propose the removal of these obstacles.

The pending collapse of the residual market poses risk and opportunity for insured employers. The risk is that a collapse will bring cost consequences that dwarf the hardship brought on by the 1987 market crisis. The opportunity is that, for the first time, it may be possible to realize a consensus position on replacing the existing residual market mechanism. A properly designed alternative holds the potential for significant cost reductions to insured employers.

For self-insurers, there are several problems posed by the turmoil in the residual market. First, it seems unlikely that the workers' compensation system will ever stabilize if the

market crisis is not resolved. Second, some of the alternatives proposed for replacing the residual market contain near-term risks for group self-insurers and long-term risks for all self-insurers. Third, this issue is distorting perspectives regarding how best to reform Maine's comp system. Reform proposals tend to be driven by insurance rate considerations which is not, from the vantage of self-insurers, the only valid perspective.

A proposal to replace the existing residual market mechanism appears as Appendix A of this presentation. This proposal not only addresses the urgent matter posed by the pending collapse, it also suggests an approach that would result in allowing all employers the option to own their workers' compensation liability and thereby have the incentive to effectively manage it. It must be emphasized that the proposal is not now fully refined and is, in fact, presented as a discussion paper. The complexity of bringing this concept on line is not perceived to be any greater than that posed in attempting to create a state fund.

The key in pursuing this objective is to create an alternative to the existing residual market that, not only solves the market crisis, but also provides employers long-term opportunities to manage their risk more effectively and realize financial gains or losses proportionate to their management successes or failures.

Objective 2 - Management Tools

By achieving objective one, today's insured employers will develop an interest more in common with self-insureds regarding the pursuit of system management tools. This is important because it builds consensus among employers and emphasizes an area of system reform that is less contentious overall and has the potential for yielding significant savings.

The achievement of Objective One also creates the first much needed management tool, the financial incentive to reduce incidence and severity. Of all the efforts of the Legislature to create safe workplaces, encourage medical management, foster return-to-work or minimize claims disputes nothing has worked better than the incentive self-insurers experience when they know that the dollar they save by pursuing these matters is another dollar in their pocket.

To enhance the management tools available in the system the Council recommends that consideration be given to the following items:

1. *Return-to-work.* Fast track resolution of suitability of work determinations; wage subsidy incentives for returning injured employees to work; formation of light duty job banks with particular attention to hard pressed labor market areas; and

reconsideration of job search burdens/trial work. Appendix B contains a specific proposal of the Council regarding light duty which does not necessitate legislative action but is critical to employer understanding of one aspect of return-to-work.

2. *Medical Management.* Fast track independent medical examiner (IME) selection for case management, utilization review and work suitability; expedite preparation of IME list; expedite completion of medical fee schedule; authorize employer selection of medical providers; and reinstate sanctions regarding the certificate of authorization to release medical records.
3. *Reduced litigation.* Create an effective mediation process that is run by mediators without lawyer involvement and replaces the current informal conference; repeal the deadline to controvert; institute the option for indefinite pay without prejudice; retain the right to use lump sum settlements; limit attorney fees.
4. *Safety.* Test the MCSI Safety Initiative (Appendix C) in 1992; refine MCSI Safety Initiative and open participation to all employers in 1993.
5. *Retroactivity.* Retroactively apply statutes and regulations pertaining to return-to-work, medical management and conflict avoidance/resolution.

Objective 3 - Seek Non-Confrontational Resolution of
Historically Contentious Issues

The Council recognizes that conflict between labor and management on workers' compensation has inhibited legislative action, resulted in poorly drafted legislation and led to the formation of the Workers' Compensation Group and the Blue Ribbon Commission. The most contentious and difficult issues to resolve involve benefits. In this regard the Council holds the following views:

1. The Council is not supporting the proposal to reduce the basis for calculating indemnity payments from 66 2/3% to 60% of the employee's average weekly wage.
2. The Council is not supporting the proposal to reduce the maximum allowable benefit.
3. The Council is not urging adoption of the proposal to reduce benefits to higher paid workers by converting to a spendable earnings method the calculation of indemnity benefits.
4. The Council is not proposing any changes to permanent impairment awards.

5. The Council is flexible in regards to reducing the duration of permanent partials. Favorable changes relating to Objective Two would reduce the need for lower durational limits.
6. On the particularly controversial issue of employer liability for non-work related disabilities the Council is now engaged in an extensive research project intended to identify the multitude of approaches other jurisdictions have taken on this matter. That research is likely to identify options that fall on a continuum ranging from non-contentious to highly contentious.

Maine is by all standards a high benefit state and high benefits, as indicated by the research of the Workers' Compensation Research Institute, tend to bring along increased rates of utilization and duration. This indirect effect of having high benefits is best addressed by either cutting benefits, creating effective management tools or both. The Council urges that the pursuit of effective management tools occur first because the opportunity for real savings exists and because this approach is clearly less contentious.

Objective 4 - Establish a Constructive Labor Management Environment

Other states, which purportedly work well, have formalized forums for labor and management to build consensus on such matters as legislative change, rulemaking and nominations. Opportunities for cooperation also exist in the areas of safety, return-to-work and medical cost containment. The Council has approached organized labor seeking their involvement in the MCSI Light Duty Feasibility Study (Appendix B) and the MCSI Safety Initiative (Appendix C). Both projects emphasize employee involvement. The Council is also interested in working with labor to identify and minimize friction points in the system caused by procedures, poorly drafted laws or other factors.

The Council does not have a specific proposal for creating a formal labor-management forum. It is hoped that the Blue Ribbon Commission will, in the course of its deliberations, check the pulse of labor and management, encourage dialogue and, if appropriate, suggest a mechanism for maintaining ongoing, meaningful dialogue.

THE MICHIGAN OPTION

The Maine Council of Self-Insurers rejects the concept that Maine should repeal its entire law and replace it by adopting wholesale the statute of another state. Such a dramatic shift greatly heightens the potential for calamitous miscalculations in

the pricing of workers' compensation coverage. This is a critical concern for group self-insurers and should be of equal concern to insurers. As experienced with Maine's fresh start program, rate inadequacies only become evident after several years of expense have already been incurred. Uncertainty as to cost brought on by the adoption of another state's law considerably expands the probability that group self-insurers in future years would face financial hardship as a result of having adopted inadequate rates.

The concept of adopting another state's statute also poses serious transition concerns. The state's current budget limitations make difficult the prospect of financing side-by-side administrative structures (one for the old law and one for the new law). The Council prefers to pay less for the state's administration of the system, not more. Then there is the process for confirming appointees which currently is characterized as contentious and drawn out due to tensions between the Executive and Legislative branches that go well beyond the comp issue and are not expected to dissipate soon. And, when appointments are finally confirmed, new personnel must also take time to learn their job before they become effective. Rulemaking is also protracted with year long delays common in the Maine experience. Personnel procedures, the Administrative Procedures Act, contract review and host of other encumbrances of state government deny the prospect for a smooth, quick transition. During the transition period, the Council expects costs will increase due to all these management dislocations and distractions. On top of these concerns is the matter of caselaw and the real possibility that the judicial outcome realized in one state could be far different than that which Maine might experience. Judicial interpretations greatly influence cost outcomes.

These are general objections to the adopt-a-state concept. Specific objections to the adopt Michigan proposal are as follows:

- * Michigan's less conservative approach to self-insurance regulation and its rate of self-insurance insolvency are unacceptable.
- * Bureau of Insurance regulation of self-insurance is preferred over Department of Labor regulation.
- * Group self-insurance should not pay the same rate for insolvency assessments as individual self-insurers because groups have joint and several liability.
- * Heterogeneous group self-insurance should not be prohibited.
- * The Michigan logging fund has been rejected twice before by the Maine legislature and is opposed by the Council as an inappropriate shift in liability.

- * Michigan's insurance market is not about to collapse. Maine's market is about to collapse. This difference and the difference in the size of each state's residual market argue the need for a special, tailored response not found in the Michigan statute.
- * The Council opposes a return to lifetime disability coverage for partial incapacity claims. This is the most significant benefit issue raised in the Michigan law.
- * Adoption of Michigan would reinstate and expand the Ashby decision (the inclusion of fringe benefits in wage calculations) which the Legislature repealed last year.
- * While Michigan's law does limit the definition of compensability in areas favored by the Council, the major provisions are right now being seriously challenged in the Michigan courts and the outcome is uncertain. This provides a good example of why it sometimes takes many years before it is possible to pin down actual costs.
- * From an employer's perspective, Maine's mental stress standard is far superior to Michigan's.
- * Michigan's standard for a work search area is considerably less stringent than Maine's and would, when applied in Maine, result in the pursuit of fewer work opportunities.
- * Maine's discontinuance provisions appear to be superior to Michigan's with respect to discontinuances following an offer of suitable work, following proof offered by the employer of the availability of suitable work and upon a finding of complete restoration of medical condition. The recent changes Maine made in these areas are just now taking effect.
- * Michigan procedure involving notice, the basis for appellate reviews, the admissibility of evidence and reinstatements are all considered to be problematic as are the much longer average delays in hearings.
- * The adoption of Michigan would involve the loss of the independent medical examiner system which employers succeeded in securing last year.
- * Maine's new law regarding medical reporting, which is deemed to be critical in changing Maine's return-to-work track record, would be wholly abandoned under the Michigan system.

The Council believes the Michigan law applied in Maine would diminish the financial integrity of self-insurance, fail to respond to the pending market collapse, offer a more liberal benefit package on average, provide employers with fewer return-to-work tools and generally reverse system improvements realized in the 1987 and 1991 legislative reforms.

It may be tempting to brush aside these concerns based on the evidence that Michigan's system is less costly than Maine's. It is curious that Michigan and other states can offer benefits equal to or greater than Maine, offer equal or better pay scales and, yet, have cost outcomes well below Maine's experience. To understand system costs, a more subtle review is required. For example, based on 1989 OSHA data, Maine, compared to Michigan, experiences 51% more lost workday cases and 77% more lost workdays due to occupational injuries and illnesses. Meanwhile, as of 7/1/89, Maine's adjusted manual rates were 69% higher than Michigan while the rate for 44 major classes of employers was 38% higher. It is logical to conclude that if Michigan's incidence and severity rates were comparable to Maine's, then Michigan may have more nearly comparable rates.

Maine undeniably has deficiencies in its law but it is equally undeniable that Maine must face up to underlying cultural conditions unique to Maine which generate behaviors like those driving Maine's incidence and severity rates. This suggests a policy response that is carefully crafted and considered versus an off-the-shelf pre-packaged policy of another state.

CONCLUSION

The Council is presenting herein a proposal for change that is far different in substance and tone from that which has been pursued in prior years. Because the membership of the Council involves those who have been most aggressive in urging reform, this shift in policy and approach is significant to the politics of resolving this issue.

While the Council cannot support adoption of the Michigan statute, the Council is not at odds with the Workers' Compensation Group as to the "objective criteria" that should be applied when proposing system reforms. Furthermore, the Council endorses the Group's call for labor-management collaboration in resolving Maine's comp crisis. These areas of agreement are reflected in the policy proposals of the Council.

Law changes alone will not resolve Maine's comp dilemma. Employers must commit themselves to effective system management that emphasizes safety, return-to-work, medical management and conflict resolution/avoidance. Furthermore, labor-management strife that is so evident must abate if the workers' compensation system is to operate effectively for all parties.

APPENDIX A

A PROPOSED RESPONSE TO THE PENDING COLLAPSE OF THE WORKERS' COMPENSATION RESIDUAL MARKET

Introduction

There is little prospect for the survival of the residual market past the end of this year and some scenarios suggest a collapse before that date. It is expected that any effort to redesign or replace the residual market mechanism will require considerable lead time. Yet, the current predisposition to refer the entire workers' compensation issue to the newly created Blue Ribbon Commission ignores the urgency of this situation.

It is in the interest of the Council to be actively involved in an effort to resolve the residual market crisis. Furthermore, the Council's assistance in resolving this issue has been specifically requested by the Maine Forest Products Council, the Maine Merchants Association, the National Federation of Independent Businesses, the Maine Motor Transport Association and the Maine Chamber of Commerce and Industry, all of whom principally represent insured employers.

Proposal

This proposal attempts to provide every employer three options for securing workers' compensation coverage:

1. A deregulated insurance market
2. Self-insurance
3. A restructured residual market

This paper principally addresses the third coverage option.

Deregulated Insurance Market - With respect to deregulating rates, carriers should be required to file their rates but be regulated only with respect to solvency and claims administration. Participation in the voluntary market should be free of any requirements to service the residual market or be subject to future residual market assessments. This proposed change will increase the number of carriers willing to do business in Maine and that increased competition will have a

positive effect on rates. This experience has been documented in other states. Furthermore, with 40% or more of the market already self-insured, there is in place a reasonable check on carrier excesses. The Superintendent should be granted authority to regulate insurance carriers to prevent them from engaging in predatory practices against self-insurers.

Self-Insurance - As for encouraging the expansion of self-insurance, the Legislature has already taken action in the form of LD 2238. The Administration still needs to update its regulations and administrative practices to assure maximum, reasonable access to the self-insurance option.

Restructured Residual Market - This aspect of the proposal attempts to emphasize the principles deemed essential to realizing fiscal stability in the comp system. First, if employers are to be responsible for covering deficits when premiums prove inadequate as in "Fresh Start" or a state fund, employers should have full management control over the insurance mechanism subject to State regulation. Second, if employers have management control, there must be the same degree of protection against insolvency as found in insurance and self-insurance legislation.

The following steps are proposed for restructuring the residual market. Keep in mind that this is a preliminary presentation of a conceptual approach. Considerable additional work is needed to refine this concept.

1. The state should continue to establish one set of rates for the market with distinctions for the Accident Prevention Account and the Safety Pool. The standards in force for determining which employers should be in the Accident Prevention Account should be reconsidered. The standards should recognize that new incentives and disincentives may be needed to complement the intent behind restructuring the residual market.
2. An Employers Guarantee Fund perhaps similar in organization to the Maine Self-Insurance Guarantee Fund should be created. The Fund's Board of Directors and the agency's plan of operation should be subject to the approval of the Superintendent of Insurance.
3. The Superintendent should subdivide the residual market into management groups that are small enough in scale and geographic area of responsibility to allow effective management (safety, claims, medical cost containment, return-to-work, etc.). One group should comprise all assignments to the accident prevention account which should be managed at the direction of the Fund's Board of Directors. The employers in the remaining groups should elect their own

managing Boards and approve their own Plans of Operation subject to the approval of the Superintendent of Insurance. Once assigned to a safety group only transfers to the APA or out of the residual market should be allowed. Acceptance by an insurance carrier should not be grounds for denial of access to the residual market.

4. Approximately 24 management groups should be created initially with as many as three overlapping in any given geographic area. This number of groups would result in total premium per group being at or below \$10,000,000 with roughly 1,000 employers assigned to each group. If the residual market shrinks, as expected, management groups serving similar geographic regions could be merged if necessary to maintain financial stability.
5. All premium should be collected by the Fund and transferred to the appropriate Safety Pool managing group. Each group should retain authority to manage their assets subject to the terms of their Plan of Operation. Certified audits should be conducted annually and submitted to the Superintendent. All premium attributable to the Accident Prevention Account should be held by the Fund Administrator and managed in a separate account in accordance with the Fund's Plan of Operation.
6. Each Safety Pool managing group should have the authority to select their own third party administrator to service their account. The Superintendent should retain veto authority over this selection.
7. At the close of each year, Safety Pool groups must complete an actuarial review of their account identifying the funding required for each policy year of operation to meet a 75% level of confidence in funding adequacy.
8. Each group should be obligated to raise from participating employers, up to 20% of premium for any policy year in which inadequate funding is indicated. Additional funding requirements would be met by all groups through assessments levied by the Employers' Guarantee Fund. Assessments would be based on each group's most current premium level but not to exceed 4% of premium. Sanctions should be considered to enforce both group and guarantee fund assessments.
9. The Employers' Guarantee Fund should be prefunded with an assessment set at 2% of premium for the first 30 months of operation. The Fund should attain a balance in excess of \$15,000,000 by January 1, 1995. If, after this date, the balance falls below \$15,000,000, additional assessments should be ordered.

10. The Superintendent should adopt rules governing dividends or reallocations to other policy years when funding levels for a policy year exceed the 90% confidence level.
11. The Superintendent may approve any Safety Pool managing group to become a group self-insured subject to the requirements for group self-insurance.
12. The Board of Directors of the Fund may be directed by the Superintendent to take over the management of any group and/or effect the merger of groups.
13. While it is envisioned that all Safety Pool managing groups will be comprised of a heterogeneous mix of employers, the Superintendent should be granted the authority to allow the formation of homogeneous groups. Further, flexibility should be granted the Superintendent in making assignments for employers operating at multiple locations.
14. All Safety Pool managing groups and the Accident Prevention Account group should be subject to the same administrative assessment that is levied on self-insurers by the Bureau of Insurance. These funds should be used to finance the costs of Bureau regulation.
15. The logistics of processing the policies for the 25,000 or more employers now in the residual market are demanding. Therefore, consideration should be given to granting the option of commissions to insurance agents who assist in completing and verifying placements in this new market mechanism.

This proposal to reorganize the residual market mechanism is designed to accommodate the need for a quick start-up that minimizes up-front start-up costs. Further, this proposal maximizes management authority with employer controlled entities that will be rewarded for instituting effective management programs. This proposal is not like group self-insurance since there is no joint and several liability, no up-front scrutiny of member financials and no up-front actuarial determinations of funding requirements. However, the management structure and opportunity is similar, there is a guarantee fund backing up the plan and there would be actuarial determinations of funding requirements for each group at the end of each policy year with funding adjustments required as indicated. The potential for savings in this proposal is argued on the basis of savings realized by group self-insurers in substantially reducing management costs, legal costs, lost time incidence and the duration of lost time claims.

To implement this concept or any other which seeks to replace the current residual market, immediate action is necessary.

Therefore, the Blue Ribbon Commission is urged to seek completion this summer of not only draft legislation but also draft proposed rules, and draft plans of operation for the Employers Guarantee Fund and the safety management groups. It is important to realize that there are significant resources available to the Commission to accomplish these tasks.

APPENDIX B

LIGHT DUTY JOB FEASIBILITY STUDY PROJECT

Introduction

During the Fall 1990 MCSI membership meeting, interest was expressed in a number of non-legislative initiatives that would address the high cost of workers' compensation. Three areas of interest were expressed: safety; return-to-work; and medical management. This paper addresses one important aspect of the return-to-work issue which is the effective use of light duty programs.

A common problem for self-insurers is creating meaningful light-duty positions for injured workers who are not yet ready to return to their regular jobs. Light-duty serves a useful purpose in advancing the recovery of injured workers by keeping them physically and mentally active and by maintaining their self-esteem. Light-duty consists of work assignments tailored to the limitations of an individual in recovery. Therefore, assignments may change over time as the injured worker's capacities improve.

The importance of returning injured workers to the workplace cannot be overstated. National statistics from the eighties indicated that the duration of workers' compensation claims in Maine was four times longer than the national average. This statistic is reflected in the high cost of workers' comp in Maine. It is likely that the single greatest factor explaining this statistic involves inducements to return to work.

Light-duty work, to be effective, must be meaningful not punitive or demeaning. It must be flexible to accommodate unique medical conditions. It must avoid disruptions to co-workers and production objectives. It must be temporary and preferably require minimal training.

Proposal

The Council proposes to study the feasibility of forming a light-duty job bank which creates placement opportunities principally in public and non-profit community service settings. Represented within the Council membership are municipalities, school districts, technical colleges, homemaker services, community action agencies and health care facilities. Working with these self-insureds it will be possible to identify placement opportunities.

Within the Council membership there are also self-insureds who have developed expertise in implementing and managing light duty programs. These members can considerably assist the Council in identifying the population of injured workers who would benefit most from light duty assignments. It is recognized that the types of assignments needed will vary depending on the circumstances of the injured worker and those of the self-insured. Detecting these varying needs will constitute an important element of the overall study.

The credibility of the study from the perspective of injured workers, employees and employers is all important. The study will be conducted in a manner that assures complete consideration of each perspective. Furthermore, it will be emphasized that this effort is not intended to relieve any employer from their obligation to return injured workers to their original place of employment or that the first priority for light duty placements should be with the employer where the injury occurred.

In the end, if the feasibility study proves positive, self-insured employers and injured employees will benefit. Simultaneously, there will be benefits for public and non-profit agencies hard pressed by difficult economic constraints. To examine this concept and oversee the study, the Council has convened a Light-Duty Study Committee consisting of the following members:

Dr. John Bielecki - Mid-Maine Medical Center
Simone Englehardt - Cianbro Corporation
Karen Heck - Kennebec Valley Community Action Program
Martha Mayo - Bath Iron Works
Richard Metivier - City of Lewiston
Barbara Mountford - The Health Center
Jack Pronovost - Diocesan Human Relations Services
Carol Purinton - Central Maine Power Co.
Mike Vadas - Maine School Management Association

The Committee seeks to finalize this study proposal so it will serve as a request for funding to charitable giving programs.

Study Objectives

1. To identify and analyze the characteristics of injured workers who are in need of light-duty placement opportunities.
2. To identify the parameters for placement considering the limitations of injured workers, the needs of self-insured employers and the advice of the medical community.

3. To identify placement opportunities principally within public and non-profit community service organizations.
4. To resolve organizational, administrative and liability issues pertaining to the formation of a light-duty job bank.
5. To prepare an implementation plan assuming the concept proves feasible.

Study Workplan

- Task 1.** An analysis of workplace injuries would be performed in order to determine the characteristics of injured workers who would benefit most from the establishment of a light-duty job bank.
- a. Workplace injuries associated with self-insureds would be classified according to injury nature, injury type and lost time duration and/or cost.
 - b. Workplace injuries that would be inappropriate for participation would be identified such as medical-only cases or injuries involving minimal lost time.
 - c. Focus group sessions with employees would be conducted to review the data, gauge reaction to the concept and receive input on preferences regarding the design of a light duty job bank.
 - d. A profile of injury types suitable for light-duty placement would be developed.
 - e. A sample of injured workers identified as potential candidates for participation in the light duty job bank would be surveyed to gauge their reaction to the concept and to identify approaches for maximizing worker acceptance and project success.
 - f. Variations in expectations among self-insureds would be assessed: large vs small; individual vs group; centralized vs decentralized; union vs non-union and existing return-to-work policies.
- Task 2.** Identify, with the assistance of occupational health specialists, constraints that must be considered in designing light-duty assignments.

- a. Consider requirements for medical oversight in directing and approving placements.
- b. Determine probable placement durations and the need to upgrade placements to correspond with the restoration of capacities.
- c. Assess skill requirements and limitations.

Task 3. Identify non-profit and public community service placement opportunities that match the capacities of injured workers and the needs of self-insureds as determined from Task 1 and which are consistent with guidance provided under Task 2.

- a. Consider placement opportunities among municipalities, local school units and community and social service agencies. Examples might include respite care, transporting the infirm to medical services, mentoring programs in local schools or land use inventories for comprehensive plans.
- b. As an alternative to having an injured worker assist in the provision of a service, consider utilizing recovery time for re-educating/ retraining a worker whose education/skills were deficient prior to the injury. This alternative could involve injured workers training injured workers.
- c. Where, due to the nature of the injury, a career change is necessary, consider the opportunities for internships among self-insured employers (paid for by the employer where the injury occurred). The purpose would be to establish work experience, generate references and, hopefully, launch a new career.
- d. In regions of the state where insufficient placement opportunities can be identified, explore the feasibility of creating state sponsored economic development projects that would stimulate job creation for injured workers. Justify state financial participation based on the tax returns generated by the overall project.
- e. Prioritize target groups and placement options based on potential for success, cost benefit and degree of injured worker, employee and employer support.

Task 4. Examine and resolve organizational issues.

- a. Design a free standing non-profit agency that would receive referrals, identify placement opportunities and act as the employer in all placements.
- b. Identify personnel and budgetary requirements.
- c. Identify the degree to which self-insureds referring injured workers will finance placements.
- d. Identify the degree to which receiving organizations will subsidize placements.
- e. Develop procedures for making referrals.
- f. Assess all liability concerns.
- g. Consider limiting startup to a region of the State that would serve as a pilot effort.

Task 5. The final part of the feasibility study will consist of the development of a recommended strategy for implementation of a light-duty job bank, for presentation to the MCSI membership.

In conclusion, it should be emphasized that this is a feasibility study and it is possible that the study will conclude that the concept described herein is not feasible. Even if that were to occur, it is clear that great benefit would nevertheless result. First, this study will generate a much improved understanding of the complexities associated with returning injured workers to employment. Second, the study will document existing return-to-work efforts for the benefit of all employers wishing to improve their own in-house initiatives.

APPENDIX C

MCSI SAFETY INITIATIVE

Introduction

At the 1990 MCSI Annual Meeting, the membership directed the organization to formulate an MCSI Safety Initiative that would set standards for recognizing and documenting safety performance. To this end, the membership was surveyed to assess their existing safety programs, experts were interviewed for their input, and the full membership was given the opportunity to react to a concept paper presented at the Spring membership meeting. Since then, the Council's Safety Committee refined the MCSI Safety Initiative further and it was presented to the membership again at the December 3, 1991 Annual Meeting and was approved as follows:

Organization

The MCSI Safety Initiative is to be wholly administered by the Council under the direction of its Safety Committee which presently consists of the following members.

Don Martin, Chair - Champion International
Terry Wolf - Maine Poly
Bob Lysaght - Cyro Industries
Frank Greslick - Maine Motor Transport Assn.
Ted Jellison - Maine School Management Assn.
Chris Denton - Shaw's Supermarkets

Committee membership will be limited to three years with staggered terms. Committee appointments will be made by the MCSI Board. The Committee will be responsible for recommending to the Board amendments to the MCSI Safety Initiative. The Committee will be responsible for judging the completeness of all documentation reports submitted to it and for ranking submittals based solely on the written presentations and the scoring criteria which follows. For liability reasons, the review process will in no way express any guarantee as to actual safety conditions or expectations of performance regarding any participating member.

Funding

The expenses of the MCSI Safety Initiative will be supported in part by the Maine Safety Fund. Expenses for the project above and beyond those supported by the grant include the Council's project development costs of the last year and ongoing administrative support, the expenses of all participating self-insureds and the donated time of the Committee.

Schedule

It is proposed that the first round of submittals requesting reviews be due September 15, 1992. Thereafter, requests for review will be due annually on that date.

Evaluation Methodology

All requests for review will be evaluated based solely on the written submittals presented to the Safety Committee. Each submittal must be signed by the senior site manager and the person completing the submittal. In the case of a group self-insurer, the group administrator will sign in lieu of the senior site manager. Documentation to substantiate the submittal may be requested such as written safety policies, procedures and programs, the summary page of the OSHA 200 form, and experience modification factors. The submittal will reflect the self-insured's most recently completed program year.

Each submittal will be judged for meeting the standards of the Initiative. All members filing a complete submittal will be recognized as an MCSI Safety Initiative Participant. Individual scores will be communicated to each self-insured. Aggregate scores will be made public to establish a benchmark from which future performance can be measured.

The first year of this Initiative will be considered as an implementation phase. At the conclusion of the first year the MCSI Safety Committee will evaluate the entire project and suggest modifications to the MCSI Board. The Safety Committee will give particular attention to the appropriateness of the scoring criteria and what, if any, additional forms of recognition should be created to reward top performers.

In conducting evaluations, the Safety Committee will strive to avoid circumstances where information of a competitive nature is shared with competitors. Committee members may be expected to

excuse themselves from reviewing a competitor's submittal. Care will be given to limiting the submittal of documentation that would give rise to this concern.

Education and Training

The Council will seek the active participation of the CMTCC Center for Occupational Health and Safety and, through this Center, the entire Technical College System. Also, considering the nature of the education and training needs and the task of reaching out to over 100,000 self-insured workers, it will be desirable to involve local adult education programs, the ITV network, and the train the trainer programs of the Maine Bureau of Labor Standards.

If resources allow, an advisory committee will be formed for each Technical College Region composed of employers and employees from local safety committees. These advisory committees will be responsible for assuring that the training and education programs are relevant to employer and employee needs and satisfy the certification requirements of the MCSI Safety Initiative.

At the end of each application requesting a safety program review there will appear a brief questionnaire on safety and health training and education needs. The results from these questionnaires will be aggregated and presented to the appropriate agencies and regional advisory committees.

Review Standards

Scoring will be based on the following standards. The point score for satisfying each standard is indicated in the right hand margin following the standard. Any standard which is inappropriate for the type of worksite, self-insured or type of employment being reviewed will be disregarded.

I. Written Safety and Health Program

A. Goals/mission statement/vision	1
B. Policy statement	1
C. Measurable performance objectives	2
D. Authority/responsibility clearly defined	1
E. Program effectively communicated to all employees	2
F. Top management clearly involved	2
G. Drug and alcohol issues addressed	1
H. Off-the-job safety, health or wellness issues addressed	1
I. Industrial hygiene issues addressed	1

J.	Accident investigation procedures	1
K.	Preventive maintenance system in place	1
L.	Emergency response plan	1
M.	Disciplinary procedures	1
N.	Education and training plan	1
O.	Procedure for receiving and addressing safety complaints	1
P.	Contractor safety program	1
Q.	Anti-reprisal provision for reporting unsafe acts and conditions	1
R.	Safe operating procedures/rules	1

II. Program Management

A.	Safety and health personnel	
1.	Duties/resources assigned appropriate to size/risk of operation	2
2.	Direct access to senior site manager	1
3.	Accessible/recognized by employees	1
4.	Personnel appropriately trained annually in relation to size/risk of operation	1
5.	Monitors overall program management	1
B.	Mechanism for regularly convening personnel to address safety and health issues/problems/concerns	
1.	Participating personnel representative of workforce	1
2.	Participating personnel are adequately supported to address issues/problems/concerns	2
3.	Frequency of dialogue sufficient	1
4.	Periodic rotation of participating personnel	1
5.	Structured dialogue (meeting schedules, agendas, minutes)	1
6.	Advisory on all aspects of Safety and Health Program	1
7.	Advisory on education/training needs	1
8.	Hear and recommend resolution of safety complaints	1
9.	Review accident investigation reports and make recommendations	1
10.	Monitor/audit safety and health conditions, performance and compliance	
a.	reinforce safe, healthy behavior	2
b.	discourage unsafe, unhealthy behavior	1
11.	Review and analyze safety and health data	1

III. Safety and Health Program Functions

A. Periodic workplace inspections	2
B. Accident investigations/reports/recommendations	2
C. Compile safety and accident data for analysis	2
D. Support workforce in correcting unsafe or unhealthy conditions	1
E. Coordinate safety/health training/education	1
F. Progressive disciplinary action to correct unsafe or unhealthy acts	1
G. Use safety record as a basis for performance review	2
H. Personnel protective equipment provided	1
I. All OSHA recordables reported to senior site manager (or lost time first reports for public sector self-insureds)	2
J. "Near misses" reported to senior site manager	1
K. Assure over time that all personnel participate in some manner in the safety and health program	1
L. Enforce anti-reprisal provisions for reporting unsafe acts or conditions	1
M. Conduct analyses of tasks, job sites, procedures and operations to identify safety and health improvement opportunities and recommend engineering or administrative modification	2
N. Medical management of workplace injuries	2
O. Return-to-work program	2

IV. Education and Training for Safety and Health

A. Site manager	2
B. Supervisors	2
C. Safety and Health Officer (40 hours/year minimum)	1
D. All other employees (1 hour/quarter minimum)	2
E. Orientation for new employees	2
F. Train the trainers program	1
G. Certified Industrial Hygienist, Certified Safety Professional and/or Certified Occupational Health and Safety Technologist available on-site or on retainer	1

V. Performance

A. Experience mod reduced from prior year or experience mod is below 1.0	3
B. Improvement from prior year in meeting in-house performance objectives or continued success in meeting these objectives	4
C. Lost time incidents are reduced from prior year or rate of incidents is below average for the appropriate workforce classification	5

- D. Total lost time is reduced from prior year or is below average for the appropriate workforce classification 5
- E. Demonstrated innovator in safety and health problem solving 5
- F. Results consistent with program goals and mission statement 3

All documentation submitted will be treated in strict confidence. Actual scores will be released only with the permission of the party making the submittal.

APPENDIX D

THE MAINE-MICHIGAN COMPARISON

Insurance/Self-Insurance

Like Maine, Michigan requires workers' compensation coverage. There is a small employer exemption, which Maine does not have, that applies to private employers with less than 3 employees of whom none work for 35 hours or more per week for more than 13 weeks out of 52 weeks. Both states have exemptions for agricultural employers but Maine's exemption is broader and also extends to aquacultural employers. The employer's liability for work related injuries associated with contractors or subcontractors is broader in Michigan.

Both states allow individual and group self-insurance but Michigan, unlike Maine, does not allow heterogeneous group self-insurance. (The study group is expected to propose an accommodation to alleviate the prohibition on heterogeneous groups.) Michigan regulates self-insurance through their Department of Labor, while Maine relies on its Bureau of Insurance. Michigan's regulation of self-insurance is less strict than Maine's with regard to financial strength and security requirements. For example, the use of trusts by individual self-insurers is rare in Michigan while it is becoming commonplace in Maine. Furthermore, group self-insurance is funded using a much less conservative model in Michigan as compared to Maine. Self-insurer insolvency claim payments in Michigan totaled \$2.2 million in 1988, \$2.4 million in 1989 and \$2.4 million in 1990. Self-insurer insolvency claim payments in Maine have totaled \$12,000 since 1981 and the inception of the MSIGA.

Individual self-insurers must be certified annually as in Maine and certified financial statements are required. Both states allow the use of surety bonds, letters-of-credit and parental guarantees. Both states allow for the waiver of specific and excess insurance requirements. Private employer groups must operate under a joint and several liability agreement as in Maine except that public employer groups in Maine must also meet this requirement. In Michigan, for groups, the "loss fund shall be 75% of collected premium or as approved by the Bureau". This contrasts to mandatory financing to the 90% level of confidence in Maine.

Both states have self-insurance guarantee funds. Maine's is prefunded while Michigan's is not. The maximum insolvency assessment in Maine is set at 2% of premium for individual self-insurers and .2% of premium for group self-insurers. In Michigan, the cap is set at 3% of prior year's total compensation

paid for individual and group self-insurers. In Maine, the Guarantee Fund is managed by a 9 member board composed of self-insurers elected by self-insurers subject to Superintendent of Insurance approval. Michigan's board consists of 3 members of whom two are nominated by the Governor and confirmed by the Senate. Of these two, one must be an insurance industry representative and one must be a self-insurer representative. The third member is the Director of the Bureau of Workers' Disability Compensation. Michigan's self-insurance fund can be tapped if there are insufficient monies in their Second Injury Fund or Silicosis, Dust Disease and Logging Industry Compensation Fund. The latter Fund is relied upon to cap at \$25,000 employer liability for claims involving silicosis, dust disease or injuries and illnesses occurring in the logging industry. This Fund and the Second Injury Fund are financed by assessments against insurers and self-insurers based on aggregate claim payments. Michigan also has a Safety Education and Training Levy.

Unlike Maine, Michigan has a competitive state fund which handles 20% of the market. Furthermore, Michigan's assigned risk pool has 12% of the market while Maine's has 92% of the insured market. Maine's insurance market is expected to collapse by year end while Michigan's is reportedly healthy.

Issues of Potential Interest to Self-Insurers

1. *Heterogeneous group ban*
2. *Self-insurance regulation by DOL vs BOI*
3. *Less strict solvency tests and security requirements*
4. *Rate of insolvency claims*
5. *Guarantee fund assessment cap*
6. *Guarantee fund board*
7. *Accessing self-insurers fund by other funds*
8. *Competitive State fund*
9. *Logging Fund assessments - cap on logger liability*
10. *Unique demands of Maine's pending market collapse*
11. *Employer liability for contractors/subcontractors*

Administration

The Bureau of Workers' Disability Compensation is in the Michigan Department of Labor. The Workers' Compensation Board of Magistrates and the Workers' Compensation Appellate Commission are autonomous entities within the Michigan Department of Labor. The Board of Magistrates is responsible for both pre-trial conferences and formal hearings while the Appellate Commission is responsible for reviewing magistrates' decisions. The Bureau administers claim processing, self-insurance regulation, vocational rehabilitation, health care services (rulemaking and

fee schedule) and a mediation division. Note that Maine's vocational rehabilitation law sunsets on September 1, 1993. The Bureau's only non-civil service employee is the Director. Magistrates and members of the Appellate Commission are appointed by the Governor subject to Senate confirmation for four year terms (12 year limit). The Governor can only appoint qualified individuals recommended by a six member Qualifications Advisory Committee equally representative of employers and employees and appointed by the Governor. The budget is financed by the State's General Fund and fees charged for "redemption agreements". In Maine, self-insurers are assessed to support both the Bureau of Insurance and the Workers' Compensation Commission. The Commission also relies on General Fund financing.

Issues of Potential Interest to Self-Insurers

1. *Administrative transfer to DOL*
2. *Qualifications Advisory Committee*
3. *Separate entities handling informals, hearing and appeals*
4. *Financing of administrative system*
5. *9/1/93 Sunset of Maine's Rehab law*

Benefits

The most significant distinction between the two states in the area of benefits is that Maine caps duration of partial incapacity claims at 520 weeks while Michigan provides benefits for the duration of the disability. In the area of permanent impairment (PI) awards Michigan is also more generous. In Maine, PI awards are calculated using the state's average weekly wage (SAWW) versus the claimant's average weekly wage (AWW) which is the approach in Michigan. Furthermore, Maine's PI awards are based on degree of impairment to the whole body. Michigan relies on a schedule as Maine once did. Finally, Maine allows offsets of PI awards against indemnity payments whereas Michigan prohibits the concurrent payment of scheduled benefits and indemnity benefits. The two approaches toward PI offsets realize a similar result.

Michigan sets the maximum weekly benefit allowed at 90% of SAWW which compares to Maine's more generous cap which calculates out at 136% of SAWW. (The Study Group is recommending that Maine adopt the dollar amount which 90% of SAWW equals in Michigan. This amount is \$441 which calculates out at 116% of Maine's current SAWW of \$381.) This change is relevant only for claims involving an average weekly wage that falls between Maine's current maximum and the proposed maximum.

Another benefit savings found in comparing the two states also hits higher wage earners disproportionately. That savings is generated by converting from Maine's calculation of indemnity benefits set at 66 2/3 of AWW to Michigan's approach set at 80% of spendable earnings. The spendable earnings plan has been considered in Maine before and has been recognized as generating overall savings perhaps in the 2% range in spite of the fact that some wage earners would do better.

There are also numerous less significant differences in the two systems. Michigan does not use cost of living adjustments as a rule although, in limited circumstances, a one-time adjustment can be approved. Maine adjusts only for total incapacity claims beginning with the third anniversary of the injury and subject to a 5% cap. In death claims Maine allows up to \$7,000 for burial and incidental expenses compared to Michigan's limit of \$1,500, a \$335,500 difference in cost given Maine's 61 fatalities in 1990. Between the two states there are similar features with respect to offsets, however, in Michigan an unemployment compensation offset occurs only if the unemployment claim is against the same employer involved with the workers' compensation claim.

Both states use the same retroactive period of two weeks but the waiting period is 7 days in Michigan versus 3 days in Maine. Michigan has a minimum payment requirement of 25% of SAWW for permanent totals and permanent impairment and 50% of SAWW for death claims. Maine's minimum is \$25 for incapacity payments. In Michigan, the value of fringe benefits can be included in calculating benefit levels if the fringe benefit does not continue during the disability and the inclusion of that fringe benefit in the calculation does not result in a weekly benefit amount in excess of 2/3 of the SAWW. Michigan is more generous than Maine in the calculation of AWW where an individual did not work for an entire year or had a variable wage.

Issues of Potential Interest to Self-Insurers

1. *Lifetime benefits for partials*
2. *Expanded permanent impairment awards*
3. *Reduction in maximum weekly benefits*
4. *Spendable earnings approach*
5. *COLA*
6. *Burial expenses*
7. *Offsets*
8. *Waiting period*
9. *Minimum benefit*
10. *Inclusion of fringe benefits in wage calculation*
11. *Seasonal worker wage calculations*

Definition of Compensability

The Michigan Act defines disability to mean "a limitation of an employee's wage earning capacity in work suitable to his or her qualifications and training resulting from a personal injury or work related disease. The establishment of disability does not create a presumption of wage loss". This definition is currently the subject of debate and controversy in Michigan including a court challenge.

Another provision of interest found in the Michigan statute, which is also the subject of a court challenge, reads as follows:

"Mental disabilities and conditions of the aging process, including but not limited to heart and cardiovascular conditions, shall be compensable if contributed to or aggravated or accelerated by the employment in a significant manner. Mental disabilities shall be compensable when arising out of actual events of employment, not unfounded perceptions thereof."

With respect to mental injuries, Maine has a tighter definition (Section 51, Subsection 3) because of reliance on "clear and convincing evidence", a "predominant cause" standard and emphasis on measurable objective standards. The "conditions of the aging process" provision found in Michigan law does not have a counterpart in Maine. The importance of this provision depends on the interpretation of the word "significant" and the actual incidence of such claims.

In Michigan's occupational disease law, the language quoted above appears again. Furthermore, the OD statute states that "an ordinary disease of life to which the public is generally exposed outside of the employment is not compensable" and "a hernia to be compensable must be clearly recent in origin and result from a strain arising out of and in the course of the employment and be promptly reported to the employer". Maine's OD law like Michigan's apportions employer liability so that only the work related aspect is covered. Furthermore, the incapacity must arise within 3 years after the last injurious exposure in the employment. Michigan's time limit is two years from the last day of work which created the exposure or two years after the occurrence of the injury if the employment creating the exposure is continued or two years from the date of manifestation of the disability.

Michigan's second injury fund relieves employers of liability for benefit payments beyond 52 weeks after the date of injury for claims involving certified "vocationally handicapped" persons. "Vocationally handicapped" means a person has a medically certifiable impairment of the back or heart, or who is subject to epilepsy, or who has diabetes, and whose impairment is a substantial obstacle to employment, considering such factors as

the person's age, education, training, experience and employment rejection.

As in Maine, with respect to preexisting conditions work does not have to be the only cause of liability for there to be eligibility. It is enough if the work causes, contributes to or aggravates a condition which results in disability in Michigan.

Issues of Potential Interest to Self-Insurers

1. *Mental stress standard*
2. *Conditions of the aging process*
3. *Occupational disease eligibility*
4. *Expanded use of second injury fund*
5. *Definition of "disability"*

Procedures

There are significant differences between Maine and Michigan regarding work search requirements, physician selection, attorney fees, discontinuances, reinstatements, notice, the basis for appellate reviews, admissibility of evidence, the use of independent medical examiners, deadlines for controverting, medical reporting, apportionment of liability and medical payments. Furthermore, Michigan's handling of hearings is slower than Maine's, 19 months on average versus 11 months.

Work search - In Maine, for the first 40 weeks following an injury the work search is set within a 75 mile radius of the employee's residence. Thereafter, the work search area is statewide. In Michigan, the standard is "within a reasonable distance from that employee's residence". In Maine, proof has to be provided that suitable work is available while in Michigan an offer has to actually be made.

Physician selection - In Michigan, the employer selects the physician for the first 10 days of treatment. Maine requires the employee to seek employer approval after the second physician selection.

Attorney fees - When the claimant prevails in Maine, attorney fees are paid by the employer. In Michigan, fees are paid from the claimant's award.

Discontinuances - Maine's newly enacted discontinuance provisions appear superior to Michigan's where benefits cannot be suspended or reduced without a magistrate's approval even if an offer of suitable work has been made and rejected. An automatic discontinuance can take effect in Michigan if, at the time of the

discontinuance, the employer was making payments voluntarily as opposed to making payments subject to an order.

Reinstatements - It is much easier to have benefits reinstated in Michigan when a claimant returns to work and subsequently loses his or her job. For example, their statute reads "If the employee, after having been employed pursuant to this subsection (418.301-5) for less than 100 weeks loses his or her job for whatever reason, the employee shall receive compensation based on his or her wage at the original date of injury."

Notice - On this subject the Michigan law reads as follows:

"A proceeding for compensation for an injury under this act shall not be maintained unless a claim for compensation for the injury, which claim may be either oral or in writing, has been made to the employer or a written claim has been made to the bureau on forms prescribed by the director, within 2 years after the occurrence of the injury. In case of the death of the employee, the claim shall be made within 2 years after death. The employee shall provide a notice of injury to the employer within 90 days after the happening of the injury, or within 90 days after the employee knew, or should have known, of the injury. Failure to give such notice to the employer shall be excused unless the employer can provide that he or she was prejudiced by the failure to provide such notice."

Maine's notice requirement is 30 days versus the 90 days allowed in Michigan and the last sentence in the quote above has not found its way into Maine law in spite of repeated attempts. Michigan's statute of limitation is similar to Maine's except that Maine allows 6 years from date of last payment compared with 2 years for Michigan.

Basis for Appellate Reviews - The Michigan Appellate Commission shall consider findings of fact made by a magistrate to be conclusive if supported by competent, material and substantial evidence on the whole record. "Substantial evidence" means such evidence, considering the whole record, as a reasonable mind will accept as adequate to justify the conclusion. In contrast, in Maine, there shall be no appeal upon questions of fact found by the commission or by any commissioner except to correct manifest error or injustice.

Admissibility of Evidence - In Michigan, if the employer, carrier or any agent of either takes a statement from an injured employee, the statement cannot be used as evidence against the employee unless a copy thereof is given to him at the time it is taken.

Independent Medical Examiners - Michigan does not rely upon the use of independent medical examiners. Maine significantly enhanced the role of independent medical examiners when it adopted the 1991 reforms. Proposed rules concerning the Maine law changes have just been released.

Deadline for Controverting - Under Maine law, a decision to controvert must be made within 60 days. Michigan has no deadline. It allows employers to pay without prejudice indefinitely. By failing to controvert an employer does not automatically buy the claim as is possible in Maine.

Medical Reporting - While Maine has recently enacted initial and periodic medical reporting requirements, Michigan does not require any standard reporting. As in Maine, Michigan employers can request information from treating medical providers. Certificates of authorization are used in Michigan.

Apportionment - In aggravations or combined effects claims involving more than one employer or carrier, the last party in on the claim pays all in Michigan. In Maine liability is apportioned among employers or carriers contributing to the incapacity.

Medical Payments - Medical bills sent by certified mail must be paid within 30 days unless disputed. Maine allows 75 days.

Issues of Potential Interest to Self-Insurers

1. *Work search standards and requirements*
2. *Physician selection*
3. *Attorney fees*
4. *Discontinuances*
5. *Reinstatements*
6. *Notice*
7. *Statute of Limitations*
8. *Basis for appellate reviews*
9. *Admissibility of evidence*
10. *Independent medical examiners*
11. *Deadline for controverting/pay without prejudice*
12. *Medical reporting*
13. *Apportionment*
14. *Medical payments*

MAINE COUNCIL OF SELF-INSURERS

May 6, 1992

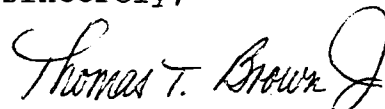
Richard Dalbeck
17 Spoondrift Lane
Cape Elizabeth, ME 04107

Dear Mr. Dalbeck:

It is my understanding that the Council will be making a presentation to the Blue Ribbon Commission on Monday, May 11, 1992 at 1:00 p.m. In preparation for that meeting, I am forwarding to you our written presentation which is simultaneously being sent to our membership. It is our hope that your advance receipt of this presentation will leave us the opportunity to shorten our oral presentation on the 11th and allow you the bulk of the time available to ask questions.

I expect that I will be joined by John Melrose, our Executive Director, and John Maynard, a member of our Board employed by Keyes Fibre. John Maynard represents an individual self-insurer while I, serving as Executive Director of the Maine Automobile Dealers Association, represent a group self-insurer. We look forward to having the opportunity to assist you in your work.

Sincerely,



Thomas T. Brown, Jr.
Chairman of the Board

TTB:jm
Enclosure
cc: Michelle Bushey

MAINE COUNCIL OF SELF-INSURERS

May 6, 1992

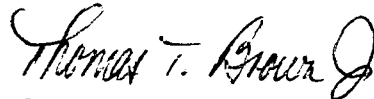
William D. Hathaway
6707 Wemberly Way
McLean, VA 22101

Dear Mr. Hathaway:

It is my understanding that the Council will be making a presentation to the Blue Ribbon Commission on Monday, May 11, 1992 at 1:00 p.m. In preparation for that meeting, I am forwarding to you our written presentation which is simultaneously being sent to our membership. It is our hope that your advance receipt of this presentation will leave us the opportunity to shorten our oral presentation on the 11th and allow you the bulk of the time available to ask questions.

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Sincerely,



Thomas T. Brown, Jr.
Chairman of the Board

TTB: jm
Enclosure
cc: Michelle Bushey

MAINE COUNCIL OF SELF-INSURERS

May 6, 1992

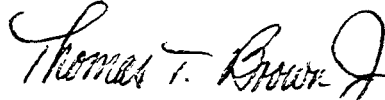
Emilien Levesque
52 Burke Street
Farmingdale, ME 04344

Dear Mr. Levesque:

It is my understanding that the Council will be making a presentation to the Blue Ribbon Commission on Monday, May 11, 1992 at 1:00 p.m. In preparation for that meeting, I am forwarding to you our written presentation which is simultaneously being sent to our membership. It is our hope that your advance receipt of this presentation will leave us the opportunity to shorten our oral presentation on the 11th and allow you the bulk of the time available to ask questions.

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Sincerely,



Thomas T. Brown, Jr.
Chairman of the Board

TTB:jm
Enclosure
cc: Michelle Bushey

MAINE COUNCIL OF SELF-INSURERS

May 6, 1992

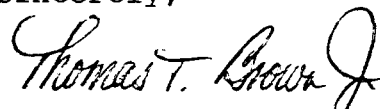
Harvey Picker
P. O. ox 677
Camden, ME 04843

Dear Mr. Picker:

It is my understanding that the Council will be making a presentation to the Blue Ribbon Commission on Monday, May 11, 1992 at 1:00 p.m. In preparation for that meeting, I am forwarding to you our written presentation which is simultaneously being sent to our membership. It is our hope that your advance receipt of this presentation will leave us the opportunity to shorten our oral presentation on the 11th and allow you the bulk of the time available to ask questions.

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Sincerely,



Thomas T. Brown, Jr.
Chairman of the Board

TTB:jm
Enclosure
cc: Michelle Bushey

MAINE DEPARTMENT OF LABOR
SPEAKING POINTS
TO THE
BLUE RIBBON COMMISSION ON WORKERS COMPENSATION
MAY 15, 1992

Maine Department of Labor's (MDOL) role in occupational health & safety;

*adopt and enforce standards in the public sector

*collection and analysis of occupational injury and illness data

*identify and promote best occupational health and safety practices

*provide various consultation, training, support and other resources to employers and employees

*develop and support additional resources, throughout the State, integrating occupational safety and health

MDOL's occupational health & safety programs are located in the Bureau of Labor Standards (BLS). Activities are funded through a combination of general, dedicated, and federal funds. The Commission on Safety & Health in the Maine Workplace serves as a resource to BLS in developing and implementing programs.

MDOL's contact with the workers compensation system relates to the collection and analysis of characteristics of injury and illness data reported on the first report of injury.

Presentation three parts; data, program, and general observations.

Submitted copies of two Department publications; one based on workers compensation data, the second on the federally required OSHA log. MDOL offers customized data services to the Commission based on information provided on the first report of injuries.

DATA

Work with both workers compensation and OSHA log data in attempts to better understand problem.

Both sets of data is helpful in targeting problem areas. OSHA information's confidentiality requirements limit more specific

applications, but the workers compensation, as public information, can be used in a very specific manner.

Maine is, and has been, involved in a number of pilot projects funded by the US Department of Labor to improve data collection and use. Involvement includes participation on two related national advisory boards in this area.

PROGRAM

Public sector enforcement program.

Training and consultation programs

*on-site consultation to OSHA standards without penalties (FY91 656 consultation visits)

*variety of training programs from one hour to one week, many include train the trainer and/or managing change components (FY91 14,951 employees trained)

*Compact, long term, targeted approach (to date three Compact groups with 46 employers with approximately 1,550 employees)

Safety Education and Training Grants, approximately \$200,000 annually awarded in grants promoting occupational health and safety education and training. (FY91 funded 26 grants)

Occupational Safety Loan Fund, co-administered with FAME, awards loans of up to \$50,000 at 3% for the purchase of equipment improving occupational health and safety. (as of March, 1992, 21 loans approved for \$696,080)

GENERAL OBSERVATIONS (no order of importance)

Occupational health and safety experience and efforts should be recognized financially to the extent possible in premium payments to establish a financial incentive.

Best practices need to be integrated into all aspects of management decision making.

Resources must be fully identified and used by employers and employees. (ie, insurance carriers, MDOL, Central Maine Technical College, Maine Safety Council, Maine Labor Group on Health, trade groups, unions, etc)

Increasing reporting of occupational illnesses in Maine, in which cumulative trauma is a growing factor.

Probable Commission on Safety and Health in the Maine Workplace targeted areas for the coming year.

*Continue refinement of data in targeting intervention efforts.

*Due to the disproportional representation of younger and newer workers among lost time cases, additional attention should be given to occupational health and safety curriculum in K-12 as well as post secondary and other skill training programs.

*BLS will continue to refine and develop valid methods of evaluation and comparison of program to better understand the elements that make up our experience and which intervention strategies work best and for what reasons.

Discussion & Questions

FOR FURTHER INFORMATION CONTACT

Charles Morrison, Commissioner MDOL, 289-3788
James McGowan, Director BLS, 624-6400
William Peabody, Deputy Director BLS, 624-6400

Jum

PROPOSALS FUNDED
by the Bureau of Labor Standards

FY92, 3rd quarter (for 3 quarters)
2/20/92 -- (term. date: 3/31/93)

INTERNATIONAL LADIES` GARMENT WORKERS` UNION: Development and delivery of a 20-hour Ergonomics Training Program at a knitting mill in Bridgton, Maine (\$3,500.00)

I.M.P.A.C.C.: The bulk of the cost for four (4) presentations of The Back School program (\$10,000.00)

MAINE FIRE TRAINING & EDUCATION: A portion of the cost of 18 one-day presentations of a train-the-trainer course covering the new Firefighter I Curriculum. Six (6) presentations would be for State Fire Instructors; 12 presentations would be for Municipal Fire Instructors and Training Officers. (\$10,000.00)

INDUSTRIAL HYGIENE/NEW ENGLAND, INC.:

- (a) Development and ten (10) four-hour presentations of an Excavation Safety program which would be provided at employers` sites. (\$9,502.50)
- (b) Development and presentation of an 8-hour program on Working Safely with Paints and Sealers (\$8,476.00)

NORTHERN WOODS SAFETY FOUNDATION: Production of a 15-20 minute videotape dealing with Mechanical Harvesting Safety for Woodworkers. (\$10,000.00 to be provided by BLS -- total projected cost for production is \$18,200.00)

MAINE LABOR GROUP ON HEALTH, INC.: Development of an 88-hour course in Competency Based Training for Responders to Hazardous Materials Incidents. Contract would include the presentation of a pilot class for a maximum of 24 participants. (\$8,900.00)

L. L. BEAN: Muscle Biofeedback for Ergonomics Research and Education (\$8,000.00 to be provided by BLS -- remaining \$23,500 will be assumed by L. L. Bean)

FY91, 4th quarter -- 7/1/91 -- (term. date: 6/30/92)

I.M.P.A.C.C.:

- (a) three (3) presentations of the Neck-Arm CTD School (\$8,355.00)
- (b) one (1) presentation of The Back School program (\$2,725.00)

NATURAL RESOURCES COUNCIL OF MAINE / MAINE METAL PRODUCTS ASSOCIATION: Reducing Toxics Use and Hazardous Waste Generation in the Metal Products Industry -- A Research and Technical Assistance Project (\$9,500.00 -- balance to be paid by Center for Technology Transfer).

UNITED HEALTH RESOURCES: six (6) presentations of Successful Accident Investigations: Learning from Your Mistakes (\$4,370.00)

ALPHA ONE (in conjunction with the State Fire Marshall's Office): development and four (4) presentations of Accessible Design and the Americans with Disabilities Act. "You Can't Build 'Em Like You Used To." (\$6,755.00)

MAINE SAFETY COUNCIL: start-up costs (purchase of training materials) for a First Aid and Cardio-Pulmonary Resuscitation training program (\$9,965.00)

INDUSTRIAL HYGIENE/NEW ENGLAND, INC.: development and one (1) presentation of Occupational Health Hazards for the Automotive Repair Trades (\$8,776.00)

THE H. L. TURNER GROUP, INC.: presentation of a two-day seminar on Industrial & Non-Industrial Ventilation for Industrial Hygienists and other health and occupational safety professionals (\$9,900.00)

FY91, 3rd quarter -- 1/30/91 -- (term. date: 3/31/92)

EDUTECH: development and five presentations (including one presentation during a statewide conference) of a training program for training managers in Using Data to Improve Management Effectiveness of Industrial Safety Programs (\$8,855.00)

MAINE EMERGENCY MEDICAL SERVICES: development and presentation of an Awareness Level "Train the Trainer" program for Emergency Medical Personnel. Contract includes development, printing, and distribution of an SOP manual for EMS personnel (\$9,950.00)

CENTER FOR HEALTH PROMOTION: development and three (3) presentations of Supervisory Role in Managing Safety as it Relates to Cumulative Trauma for firstline manufacturing supervisors (\$9,970.00)

AMERICAN LUNG ASSOCIATION: presentation of the Future Workers Education Project, which integrates lung health and safety component into the vocational education curricula (\$9,442.20)

MAINE LABOR GROUP ON HEALTH: startup of the Occupational Health Education Assessment Project (\$9,038.00)

UNITED HEALTH RESOURCES: twelve (12) presentations of How to Live Till You're 21: A Talk on Workplace Health and Safety for High School Students (\$4,126.00)

UNIVERSITY OF NEW ENGLAND: development of a slide/tape educational program for occupational health professionals on Gross and Functional Anatomy of Upper Extremity CTDs (\$3,000.00)

FY91, 2nd quarter -- 11/26/90 -- (term. date: 12/31/91)

UNIVERSITY OF SOUTHERN MAINE: a portion of the cost for Establishment of a Workplace Design Institute at USM including development of a three-credit course and equipping an ergonomic laboratory (\$10,000.00)

NORTHERN WOODS SAFETY FOUNDATION: presentation of two Supervisor's Safety Workshops (\$3,325.00)

MAINE SAFETY COUNCIL: 15 presentations of the Eye Injury Prevention Program (\$4,655.00)

I.M.P.A.C.C.:

- (a) a portion of the cost for four (4) presentations of the Neck-Arm CTD School (\$10,000.00)
- (b) two (2) presentations of The Back School program (\$5,450.00)

CENTRAL MAINE TECHNICAL COLLEGE: continued support for the Center for Occupational Health and Safety at CMTC (\$5,000.00 -- additional funds to be supplied by private sources)

FY91, 1st quarter -- 8/14/90 -- (term. date: 12/31/91)

MAINE LABOR GROUP ON HEALTH, INC.: development and presentation of a pilot program to develop and implement curriculum revisions to improve and enhance the health and safety content in one of the State's certified apprenticeship programs (\$9,950.00)

NORTHERN WOODS SAFETY FOUNDATION: (in cooperation with the American Pulpwood Association and other industry related organizations), production of two notching technique models for Logger's Safety Awareness Workshops (\$2,975.00)

ASSOCIATED BUILDERS AND CONTRACTORS, INC.: presentation of Mobile Safety Service Program to 8 companies -- one session per month, per company, for three months, for a total of 24 sessions (\$4,622.00)

MAINE FIRE TRAINING & EDUCATION: final preparation and delivery of a six-hour Introduction to Maine's Firefighter Safety Laws (\$10,000.00)

MAINE MUNICIPAL ASSOCIATION: development and four (4) presentations (at four Maine locations) of Safety for School Employees (\$10,000.00 -- remaining \$5,313.26 to be provided by MMA cost sharing)

FY90, 4th quarter -- 4/30/90 -- (term. date: 3/31/91)

AMERICAN INDUSTRIAL HYGIENE ASSOCIATION: presentation of a four-hour program entitled Are Power Lines and Video Display Terminals Safe? (\$3,620.00)

CENTRAL MAINE TECHNICAL COLLEGE: continued funding for a full-time faculty position for the Center for Occupational Health and Safety at CMTC. (\$5,000.00 -- remainder to be provided by contributions from private sources)

SHEEPSCOT VALLEY HEALTH CENTER: presentation of a 12 1/2 hour Chainsaw Safety Workshop (\$1,100.00)

ASSOCIATED GENERAL CONTRACTORS: a portion of the cost for development of a Construction Safety Video Library which will be available to all Maine construction companies without rental fees (\$5,000.00 -- miscellaneous and additional costs to be absorbed by AGC)

UNITED HEALTH RESOURCES: five presentations of Successful Accident Investigations: Learning from Your Mistakes (\$3,595.00)

TRAINING ASSOCIATES OF MAINE: four presentations of Employees' Right to Know / Chem-Safe Program (\$4,400.00)

UNIVERSITY OF SOUTHERN MAINE: a portion of the cost for presentation of a full semester, 3-credit course on Development of Work Place Design Track for Industrial Technology Students (\$5,000.00)

IRON WORKERS LOCAL #496: a portion of the cost for a four-year program on Safety Training for Apprentice Iron Workers (\$10,000.00 -- additional costs to be paid by donations, etc.)

THE CENTER FOR HEALTH PROMOTION: development and implementation of Managing Cumulative Trauma at two Maine companies (\$10,000.00 -- remainder to be paid by the companies selected)

FY90, 3rd quarter -- 2/6/90 -- (term. date: 12/31/90)

RUMFORD FIRE DEPARTMENT: 36 five- to six-hour presentations of a Haz-Mat training program for Oxford County first responders [\$2,000.00 (total cost of program estimated at \$9,973.20)]

OCCUPATIONAL HEALTH EXCELLENCE, INC.: development and six (6) Grand Round presentations of Management of Workplace Injuries -- a videotape will be made of one of the presentations (\$9,900.00)

MAINE SAFETY COUNCIL: 15 presentations of an Eye Injury Prevention Program (\$4,890.00)

I.M.P.A.C.C.:

- (a) ten (10) presentations of The Back School (\$5,700.00)
- (b) a portion of the cost of four (4) presentations of the CTD Program (\$10,000.00)

UNITED HEALTH RESOURCES:

- (a) development and ten (10) presentations of How to Live Till You're 21: A Talk on Workplace Health and Safety for High School Seniors (\$5,050.00)
- (b) development and two (2) presentations of Successful Counseling Techniques for Occupational Health Nurses (\$2,688.00)

FY90, 2ND QUARTER -- 11/28/89 -- (term. date: 9/28/90)

MAINE COUNCIL OF SELF-INSURERS (in collaboration with Occupational Health Excellence): presentation of one (1) preliminary symposium and five (5) training sessions in Corporate Health Promotion (\$9,180.00 -- 1/2 of the cost for each of the 5 training sessions will be paid by the recipient company)

MAINE SAFETY COUNCIL: fifteen (15) presentations of the Hand and Finger Injury Prevention Program (\$4,567.50)

LINK PERFORMANCE AND RECOVERY SYSTEMS, INC. (in cooperation with New England College of Osteopathic Medicine): establishment of the Medical Ergonomics Development Project, production of a series of five (5) videotapes, a mailing offering the set of videotapes to 500 designated professionals in the State of Maine (\$9,953.00)

OCCUPATIONAL HEALTH EXCELLENCE, INC.:

- (a) development and production of two hundred (200) copies of an Occupational Health and Safety Resource Guide (\$8,350.00)
- (b) three (3) presentations of Worker's Compensation Cost: Training Program for Managers (\$9,700.00)

I.M.P.A.C.C.:

- (a) five (5) presentations of The Back School (\$2,850.00)
- (b) two (2) presentations of the CTD Program (\$5,530.00)

FY90, 1ST QUARTER -- 7/27/89 -- (term. date: 6/29/90)

THE CENTER: continuing support for the ChemSafe Project (\$10,000.00)

C.M.V.T.I.: a portion of the cost of hiring a faculty member for the Center for Occupational Health and Safety (\$10,000.00 -- funds to be matched 2:1 by B.I.W.)

UNIVERSITY OF MAINE: development and production of a 20-30 minute videotape entitled Potato Harvester Safety (10,000.00)

UNITED HEALTH RESOURCES: three (3) presentations of How Chemicals Hurt Your Body (\$3,017.00)

I.M.P.A.C.C.:

- (a) ten (10) presentations of The Back School (\$5,700.00)
- (b) four (4) presentations of the CTD Program (\$10,060.00)

MAINE SAFETY COUNCIL: fifteen (15) presentations of The Hand and Finger Injury Prevention Program (\$4,567.00)

FY89, 4TH QUARTER -- 5/10/89 -- (term. date: 3/31/90)

NORTHERN WOODS SAFETY FOUNDATION: production of a Logging Truck Safety Video Program (\$10,000.00)

UNIVERSITY OF MAINE: production of video tape(s) and presentations of Training for Agricultural Employees in the Maine Chemical I.D. Law (\$9,987.00)

MAINE LABOR GROUP ON HEALTH, INC.: development and presentations of videotape on Health Effects of Pesticide Exposure During the Blueberry Harvest (\$8,846.00)

I.M.P.A.C.C.: 2 presentations of CTD Program (\$4,660.00)

OCCUPATIONAL HEALTH EXCELLENCE, INC.: a portion of the cost of development of a videotape and 4 presentations of Workers' Compensation: Controlling the Cost (Human and Financial) (\$9,920.00)

UNITED HEALTH RESOURCES: development and 10 presentations of Successful Accident Investigations: Learning from your Mistakes (\$9,893.00)

FY89, 3RD QUARTER -- 2/10/89 -- (term. date: 12/31/89)

MAINE SAFETY COUNCIL: 20 presentations of a Hand and Finger Injury Prevention Program (\$7,480.00)

MAINE SAFETY COUNCIL: 15 presentations of a Safety Attitude Assessment and Training Program (\$5,223.75)

I.M.P.A.C.C.: 20 Back Schools (\$10,400.00)

MAINE LABOR GROUP ON HEALTH: Development of Intervention Strategies to Reduce Illnesses and Injuries in Lumber and Wood Production Industries (\$6,690.00)

LIFE SAFETY CONSULTANTS OF NEW ENGLAND: 6 presentations of the Below Grade Safety Seminar (\$4,540.00)

BANGOR HYDRO-ELECTRIC COMPANY: Zero Damage to People safety training to be provided by Wynne Stewart and Associates of Orange, Texas (\$4,000.00)

MAINE ASSOCIATES FOR SAFETY-HYGIENE-ENVIRONMENT: 2 presentations of Hazardous Materials Development and Management Program for Small Boat Builders of Maine (\$9,890.00)

FY89, 2ND QUARTER -- 11/29/88 -- (term. date: 6/30/89)

I.M.P.A.C.C.:

(a) 10 Back Schools (\$5,200.00)

(b) 4 CTD Programs (\$9,320.00)

RESOURCES UNLIMITED: Oral Presentations (\$4,233.00)

MAINE LABOR GROUP ON HEALTH, INC.: Development and Demonstration of Toxics Use Reduction Strategies in Small Businesses (\$9,900.00)

MAINE MUNICIPAL ASSOCIATION: 6 presentations of Hazardous Chemicals in Your Community -- Development of a Comprehensive Management Plan (\$10,000.00)

UNITED HEALTH RESOURCES: 8 presentations of How Chemicals Can Hurt Your Body (\$8,235.00)

LINK PERFORMANCE & RECOVERY SYSTEMS, INC.: 1 presentation of Developing Cumulative Trauma Management Programs from a Medical Ergonomics Perspective (\$9,300.00)

FY89, 1ST QUARTER (termination date: 3/31/89)

SCITECH CONSULTING SERVICES: Training Manual for Maintenance, Custodial, and Housekeeping Personnel (\$3,150.00)

I.M.P.A.C.C. (formerly Orthopedic Physical Therapy Center): 10 Back Schools (\$5,200.00)

MAINE SAFETY COUNCIL: 10 Safety Attitude Assessment and Training Programs (\$4,950.00)

MAINE CENTER FOR EDUCATIONAL SERVICES: start-up costs to provide training and information services to school districts and state government departments regarding chemical hazards in the workplace (\$10,000.00)

LOCAL 496: a portion of the presentation costs of Safety Training for Apprentice Iron Workers (\$10,000.00)

FY88, 4TH QUARTER (termination date: 12/31/88)

MAINE LABOR GROUP ON HEALTH: 1 presentation of Health Effects of Exposure to Paints and Paint Solvents (\$6,220.00)

ORTHOPEDIC PHYSICAL THERAPY CENTER: 10 Back Schools (\$5,200.00)

THREE EAST VIDEO PRODUCTIONS: production of a videotape which will explain the methods of safety working below ground level in trenches and excavations (\$10,000.00)

YORK COUNTY HEALTH SERVICES: 10 Preventive Hand and Arm School Programs (\$3,500.00)

INDUSTRIAL HYGIENE/NEW ENGLAND: 5 presentations of a Pesticides training program (\$9,910.00)

FY88, 3RD QUARTER (termination date: 9/30/88)

MAINE SAFETY COUNCIL: 10 Safety Attitude Assessment and Training Programs (\$6,735.00)

MAINE LABOR GROUP ON HEALTH: 3 presentations of Chronic Health Effects of Pesticide Exposure (\$5,600.00)

ORTHOPEDIC PHYSICAL THERAPY CENTER: 10 Back Schools (\$5,200.00)

FY88, 2ND QUARTER (termination date: 6/30/88)

AMERICAN LUNG ASSOCIATION OF MAINE: development and 6 presentations of Occupational Asthma (\$6,470.00)

YANKEE HEALTHCARE, INC.: 5 Respiratory Protection programs (\$2,043.00)

ORTHOPEDIC PHYSICAL THERAPY CENTER: 10 Back Schools (\$5,200.00)

YORK COUNTY HEALTH SERVICES:

(a) 5 Preventive Hand and Arm School Programs (\$1,750.00)

(b) 5 Preventive Back School Programs (\$2,350.00)

FY88, 1ST QUARTER (termination date: 12/31/87)

YANKEE HEALTHCARE, INC.: 2 Respiratory Protection programs
(\$820.00)

NORTHERN WOODS SAFETY FOUNDATION: a portion of the cost for
production of a Directional Felling Video Program (\$8,000.00)

MAINE SAFETY COUNCIL: 20 Material Handling Training classes
(\$3,810.00)

FY87, 4TH QUARTER (termination date: 12/31/87)

ORTHOPEDIC PHYSICAL THERAPY CENTER:

(a) 10 Back Schools (\$5,200.00)

(b) 1 presentation of The Carpal Tunnel and Tendonitis
School (\$1,785.00)

MAINE LABOR GROUP ON HEALTH, INC.: development and 1
presentation of Supervisory Practices and Procedures in Asbestos
Control (\$2,500.00)

FY87, 3RD QUARTER (termination date: 6/30/87)

NORTHERN WOODS SAFETY FOUNDATION:

(a) a portion of the cost of 2 presentations of
Supervisors' Safety Workshops (\$2,090.00)

(b) a portion of the cost of 3 presentations of Loggers'
Training Workshops (\$585.00)

MAINE SAFETY COUNCIL: 15 Material Handling Training classes
(\$3,019.50)

ORTHOPEDIC PHYSICAL THERAPY CENTER: 10 Back Schools (\$4,700.00)

MAINE LABOR GROUP ON HEALTH, INC.: 1 presentation of Work
Practices for Asbestos Abatement Workers (\$3,510.00)

FY87, 2ND QUARTER (termination date: 6/15/87)

MEDICAL CARE DEVELOPMENT: development and presentation of safety training for production supervisors (\$4,078.00)

MAINE LABOR GROUP ON HEALTH, INC.: presentation of Right to Know Training for Cosmetologists: Introductory Program (\$1,623.00)

ORTHOPEDIC PHYSICAL THERAPY CENTER:

(a) presentation of The Carpal Tunnel and Tendonitis School (\$4,800.00)

(b) 10 Back Schools (\$4,700.00)

FY87, 1ST QUARTER (termination date: 12/30/86)

NORTHERN WOODS SAFETY FOUNDATION: production of a videotape on hazard identification in woods work (\$10,000.00)

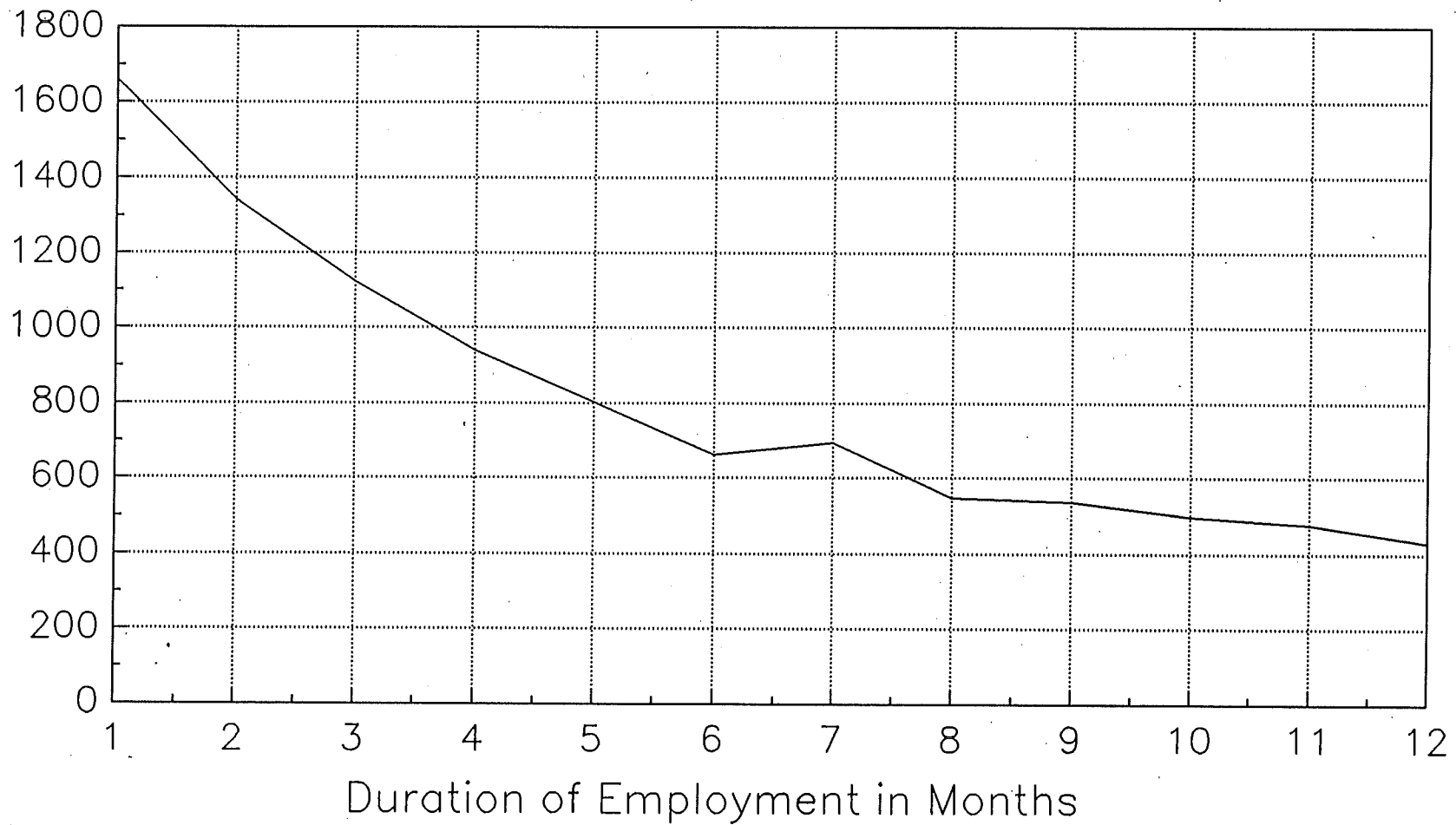
NORTHERN WOODS SAFETY FOUNDATION: Supervisors' Training Workshops (\$3,000.00)

ORTHOPEDIC PHYSICAL THERAPY CENTER: 10 Back Schools (\$4,700.00)

MAINE LABOR GROUP ON HEALTH: development and 2 presentations of Controlling the Hazards in Asbestos Abatement: A Program for Workers (\$6,816.00)

DISABLING CASES 1990 State of Maine

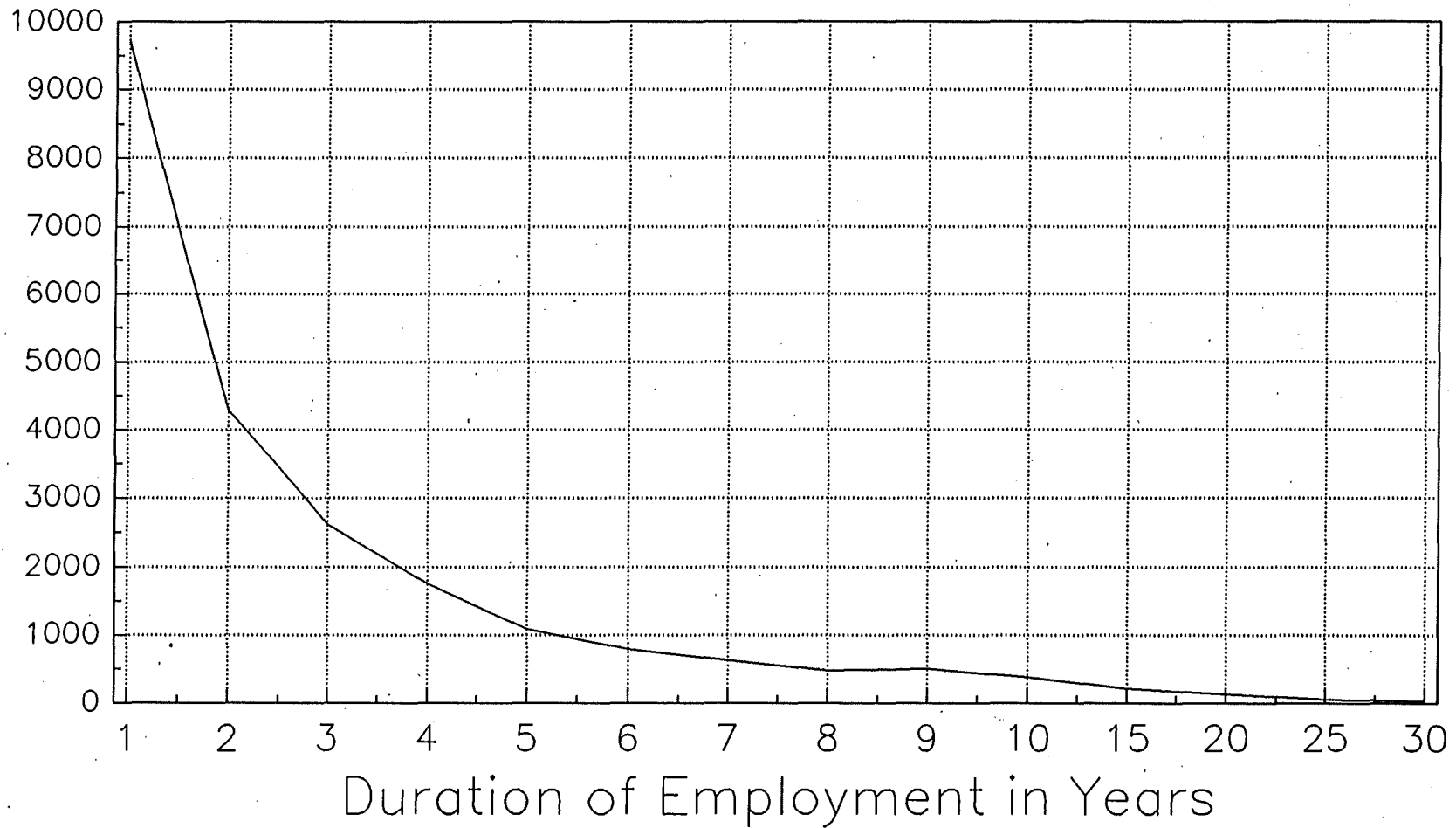
Number of Cases



DISABLING CASES

1990 State of Maine

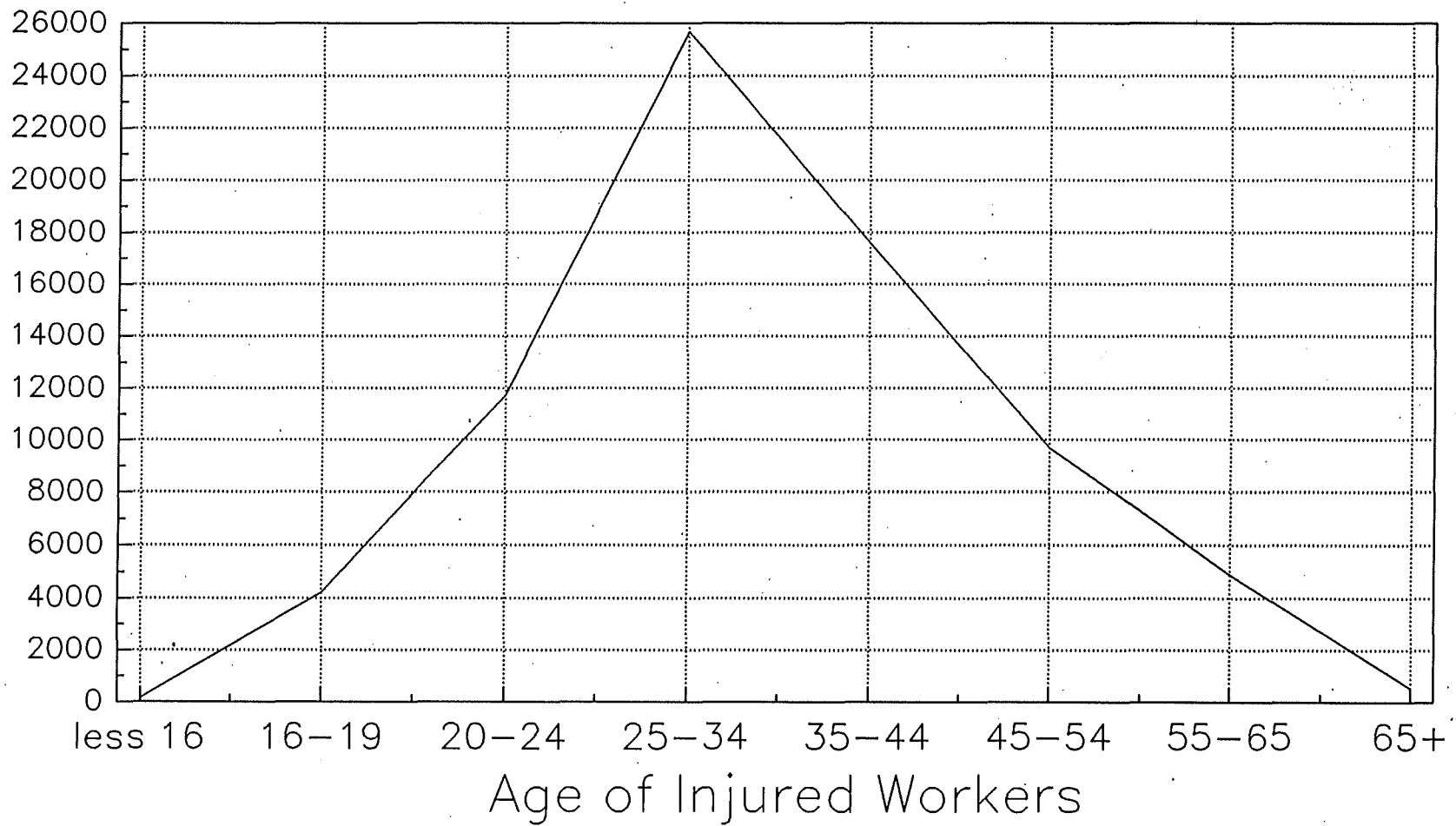
Number of Cases



ALL CASES

1990 State of Maine

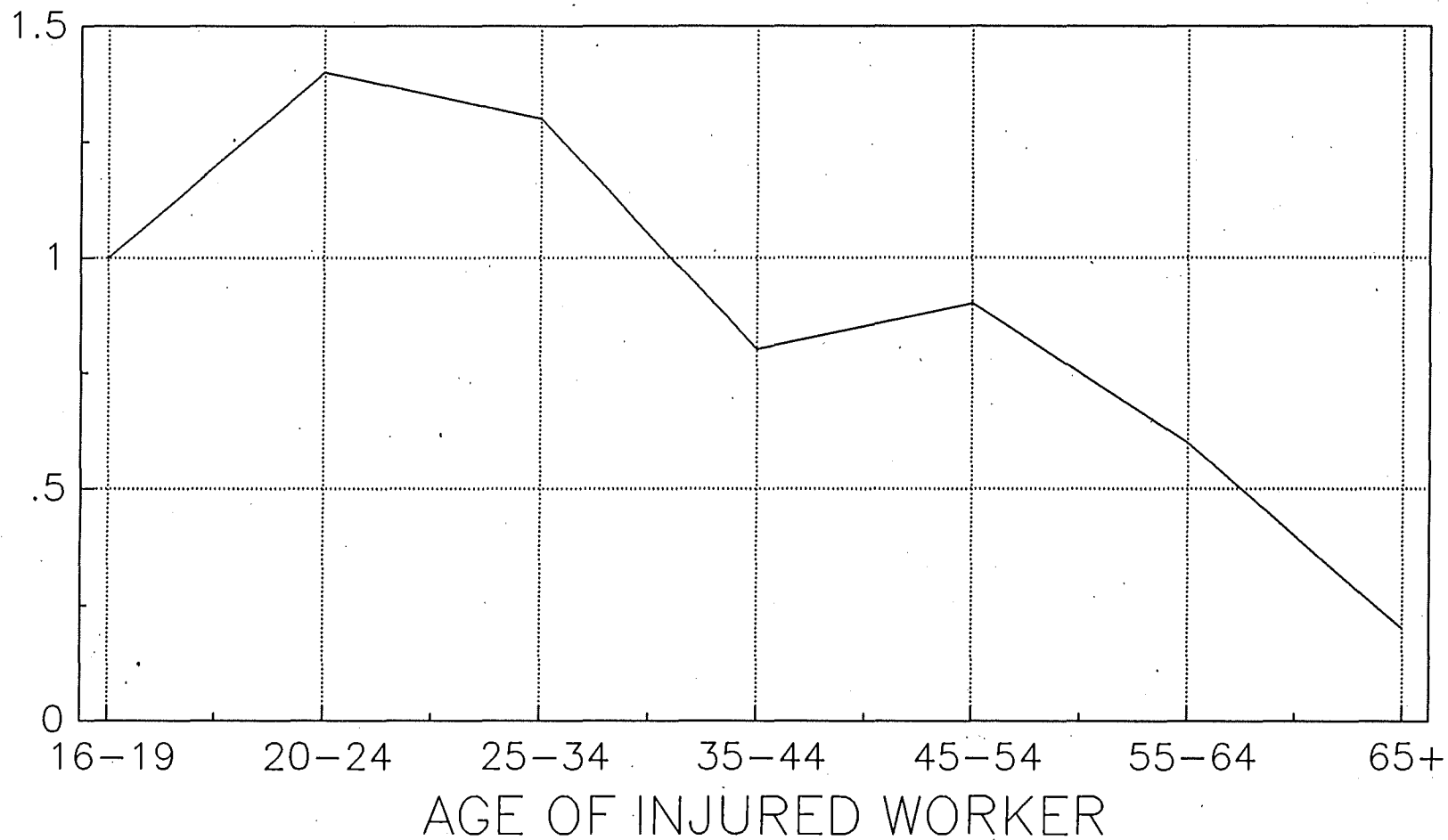
Number of Cases



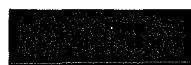
RATIO OF 1ST REPORTS TO EMPLOYMENT

1990 State of Maine

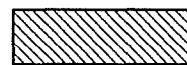
RATIO



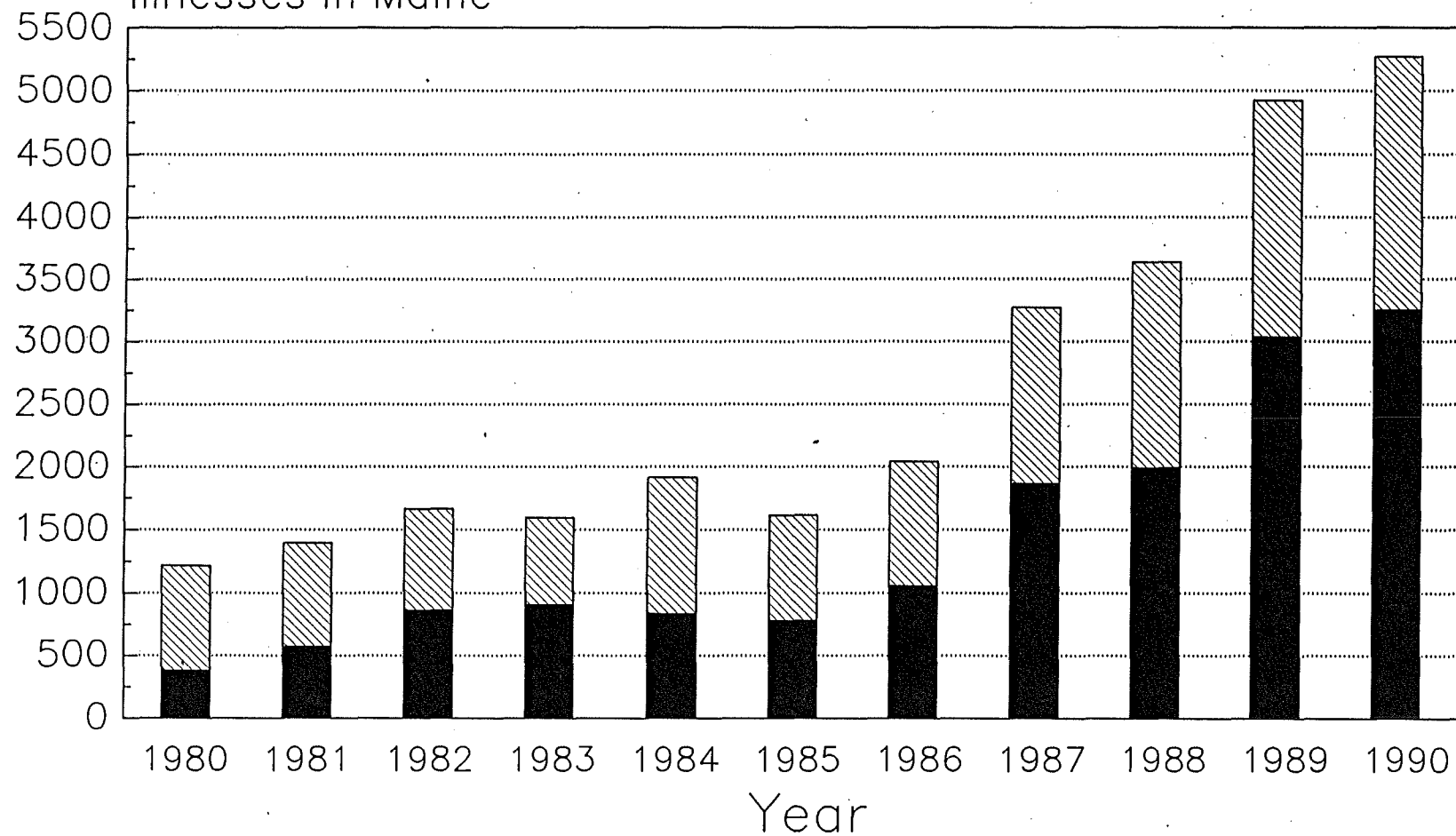
Cumulative Trauma



All Other



Illnesses in Maine



MAINE DEPARTMENT OF
LABOR

BUREAU OF LABOR STANDARDS
Research and Statistics Division



Characteristics of Work-Related Injuries and Illnesses in Maine 1990

BLS 635
JANUARY 1992

**CHARACTERISTICS OF WORK-RELATED
INJURIES AND ILLNESSES IN MAINE
1990**

Prepared By:

Bureau of Labor Standards
Research and Statistics Division

John L. Rioux, Director
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January 1992

In cooperation with the
Maine Workers' Compensation Commission

and the

U. S. Department of Labor
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PREFACE

The statistics in this publication are the result of work performed by Supplementary Data System (SDS) workers of the Maine Department of Labor, Bureau of Labor Standards, Division of Research and Statistics, in cooperation with the Maine Workers' Compensation Commission. Partial funding for the SDS program is provided by the U.S. Department of Labor, Bureau of Labor Statistics, Office of Safety and Health Statistics.

Maine's participation in the SDS program began in 1977. Published data on work-related injuries and illnesses extends back through that year, though supplies of publications for years 1979 through 1983 have been depleted. In 1984 there was no publication. More detailed tables for 1982, 1983, and 1985 through 1990 are available. Additionally, information may be generated for people with specific requests for data on work-related injuries; however, due to continual increases in workload, our ability to handle such requests is limited. See Appendix B for ordering information.

The goal of this publication is simplicity. It is our hope that everyone will be able to understand the statistics by following the charts and graphs and by reading the short narratives which accompany them. If you have any comments or suggestions that might improve the usefulness or readability of the data, please contact the Department of Labor, Bureau of Labor Standards, Division of Research and Statistics, Station #45, Augusta, Maine 04333-0045.

For the most part, the tables and charts within show two series of numbers, those for ALL cases and those for DISABLING cases. When Workers' Compensation First Reports of Occupational Injury or Illness are coded, they are assigned one of four severity codes: 1) Fatal; 2) Disabling (one or more lost workdays beyond the date of injury or onset of illness); 3) Nondisabling; and 9) Unknown (not reported). The information in this publication is gathered from reports received by the Workers' Compensation Commission through August 10, 1991, for incidents which occurred during calendar year 1990.

For the first time since 1982 there was a decrease in the number of First Reports of Occupational Injury or Illness filed with the Workers' Compensation Commission. In 1990 there were 75,155 reports received through August 10, 1991, a decrease of 6.5 percent over 1989 with 80,359 reports received through July 11, 1990. A total of 26,693 cases involved a loss of one or more workdays beyond the day of injury or onset of illness. This is an increase of 2.6 percent from the number of cases reported in 1989. For the first time, follow-ups were done on First Reports to determine if lost time occurred after the report was filed. Approximately 3,500 cases were changed to lost time as a result of our follow-up efforts. Comparing numbers of lost time cases for 1990 with previous years will be difficult since previous years have not yet been updated. The number of fatalities in 1990 was 61, which is an increase of eight fatalities over 1989.

1990 HIGHLIGHTS

- * There were 75,155 First Reports of Injury or Illness filed with the Workers' Compensation Commission through August 10, 1991.
- * A total of 26,693 cases involved a loss of one or more workdays beyond the day of injury or onset of illness.
- * There were 61 reported fatalities.
- * Sprains and Strains accounted for 35.6 percent of all cases filed.
- * Injuries to the Upper Extremities, including hands, wrists, and arms accounted for 32.6 percent of all claims.
- * The leading Source of Injury was Working Surface.
- * The leading Type of Injury was Overexertion.
- * Men accounted for 66.5 percent of all injuries.
- * Over 34 percent of all injuries and illnesses occurred in the 25-34 year old age group.
- * Precision Production, Craft and Repair Workers as an occupational group reported 22.8 percent of all injuries and illnesses in 1990.
- * Manufacturing was the industry division with the largest number of reports filed in 1990, 34.2 percent.
- * Over 48 percent of all reports were for workers with less than two years of employment with their current employer.
- * January, July, August, and September were the months with the highest incidence of injuries and illnesses.
- * More injuries and illnesses occurred on Monday than on any other day of the week.

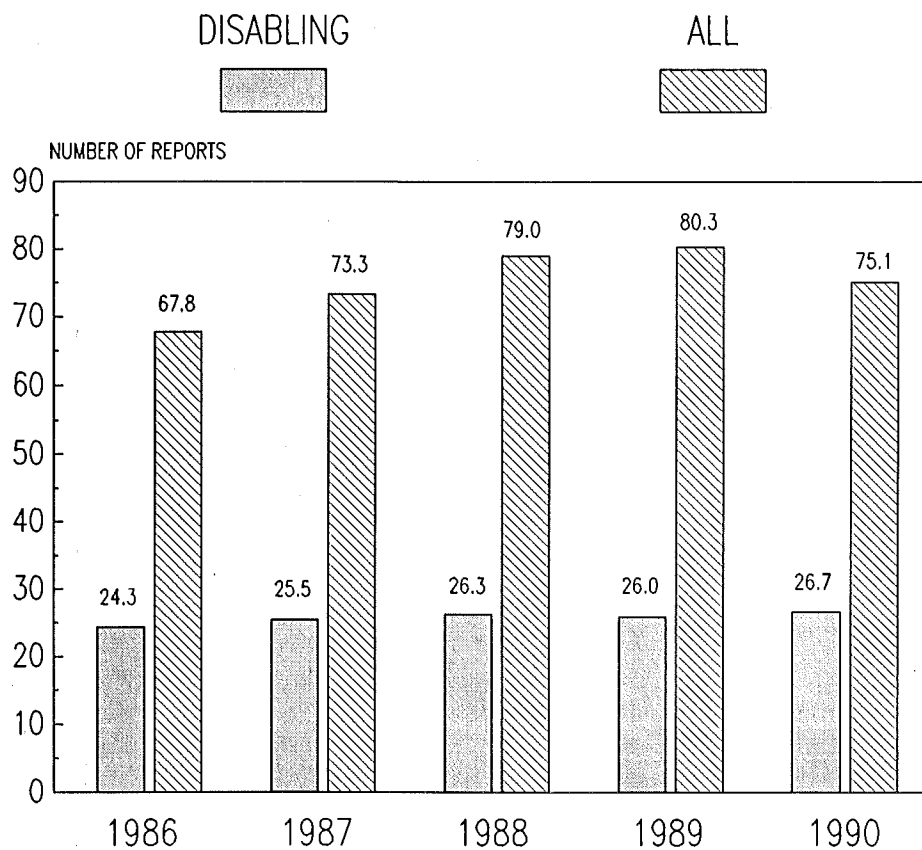
Five-Year Comparison

For the first time since 1982, there was a decrease in First Reports received by the Workers' Compensation Commission. Receipts for 1990 were 6.5 percent lower than for 1989. In 1990, one report was filed for every seven workers in the labor force. This does not mean that every seventh employee filed a report, because some individuals filed more than one.

As stated in the preface, an effort was made this year to do follow-ups on First Reports to determine if employees lost time subsequent to the initial reporting. The percentage of disabling cases to total cases in 1990 was 35.6 percent; in 1989 it was 32.4 percent.

**FIGURE 1. NUMBER OF FIRST REPORTS
MAINE, 1986-1990**

(All Numbers in Thousands)



PART II

CHARACTERISTICS OF FIRMS

OWNERSHIP

In 1990 private employers filed 89.3 percent of all First Reports. The remainder were filed by local government (7.3 percent) and the State (3.4 percent). It is important to remember there are different jurisdictions for the enforcement of Occupational Safety and Health rules and regulations. The U.S. Department of Labor, Occupational Safety and Health Administration (OSHA), covers private employers while the Safety Division of the Maine Department of Labor's Bureau of Labor Standards covers both state and local government.

Because work in the private sector is different and often more dangerous than work in the public sector, comparisons between them should not be made.

Private employers experienced a decrease in both the total and disabling number of reports filed in 1990. Local Government had an increase in both numbers while State Government had an increase in the total number and a decrease in the number of disabled cases filed.

**TABLE 5. AVERAGE EMPLOYMENT AND REPORTS, NUMBER AND PERCENT
ALL AND DISABLING, BY OWNERSHIP
MAINE, 1990**

	REPORTS OF INJURIES AND ILLNESSES					
	AVERAGE EMPLOYMENT ¹		ALL		DISABLING	
	Number	Percent	Number	Percent	Number	Percent
ALL EMPLOYERS	509,610	100.0	75,155	100.0	26,693	100.0
PRIVATE EMPLOYERS	435,260	85.4	67,109	89.3	23,745	89.0
PUBLIC EMPLOYERS	74,350	14.6	8,046	10.7	2,948	11.0
LOCAL GOVERNMENT	50,482	9.9	5,495	7.3	1,901	7.1
STATE GOVERNMENT	23,868	4.7	2,551	3.4	1,047	3.9

1. SOURCE: Division of Economic Analysis and Research, Bureau of Employment Security, Department of Labor.

OCCUPATION

A worker's occupation is one of the best indicators of whether or not he or she will have a work-related injury or illness. Injuries and illnesses are highly concentrated in certain occupational groups: (1) Precision Production, Craft, and Repair occupations (including all mechanics, construction trades workers, precision metal workers, and plant and system operators); (2) Machine Operators, Assemblers, and Inspectors; (3) Service occupations, and (4) Handlers, Equipment Cleaners, and Laborers (including all trades helpers, machine feeders and offbearers, stock clerks, and packers).

**TABLE 2. OCCUPATIONAL GROUPS, NUMBER AND PERCENT
ALL AND DISABLING, MAINE, 1990**

OCCUPATIONAL GROUP	REPORTS OF INJURIES AND ILLNESSES			
	ALL		DISABLING	
	Number	Percent	Number	Percent
TOTAL	75,155	100.0	26,693	100.0
Precision Production, Craft and Repair Occupations	17,128	22.8	5,507	20.6
Machine Operators, Assemblers and Inspectors	13,290	17.7	4,585	17.2
Service Workers	11,825	15.7	4,446	16.7
Handlers, Equipment Cleaners and Laborers	10,521	14.0	4,354	16.3
Transportation and Material Moving Occupations	4,576	6.1	2,146	8.0
Administrative Spt.-Clerical	4,199	5.6	1,347	5.0
Professional Specialty	3,584	4.8	848	3.2
Sales Occupations	2,591	3.4	936	3.5
Executive, Administrative and Managerial Occupations	2,036	2.7	575	2.2
Protective Services	1,775	2.4	610	2.3
Farming, Fishing, Forestry	1,679	2.2	813	3.0
Technicians and Support Occup.	1,621	2.2	409	1.5
Other Occupations	14	0.0	9	0.0
Unknown Occupations	316	0.4	108	0.4

AGE

Safety training for young workers and for students before entering the work force has been a major focus of safety educators in recent years. The statistics continue to show that training of young workers should be a priority. In the table below, a ratio has been calculated by dividing the percentage of reports by the percentage of the labor force for each age group. A ratio of 1.00 indicates that the number of reports filed is in line with the employment. Numbers greater than 1.00 indicate that the number of claims filed is greater than expected. The ratio for 20 through 24 year-olds and 25 through 34 year-old for men was high and the ratio for women 20 through 24 year-olds was slightly greater than expected.

**TABLE 3. AVERAGE EMPLOYMENT AND REPORTS, PERCENT AND RATIO
BY SEX, BY AGE
MAINE, 1990**

AGE	MEN			WOMEN		
	1 Percent Labor Force	Percent Reports	2 Ratio	Percent Labor Force	Percent Reports	3 Ratio
Under 16	-	0.2	-	-	0.2	-
16-19	5.3	5.5	1.0	5.9	5.7	1.0
20-24	10.7	16.6	1.6	11.7	13.5	1.2
25-34	25.1	36.1	1.4	27.5	30.4	1.1
35-44	29.8	22.1	0.7	26.4	26.1	1.0
45-54	15.0	11.9	0.8	15.0	14.9	1.0
55-65	10.7	6.0	0.6	10.3	7.5	0.7
65+	3.4	0.7	0.2	3.3	0.8	0.2

1.SOURCE: Division of Economic Analysis and Research, Bureau of Employment Security, Department of Labor.

2. Percent of men reports divided by percent of men labor force.

3. Percent of women reports divided by percent of women labor force.

NOTE: Cases with age unknown were eliminated.

LENGTH OF SERVICE

Among those people filing First Reports of Occupational Injury or Illness, individuals in the Executive, Administrative, and Managerial Occupations, and the Protective Service Occupations (including police and firefighters) had the greatest longevity with their employer. Conversely, Handlers, Cleaners, and Helpers had spent a relatively short period of time working for their current employer.

**TABLE 4. AVERAGE LENGTH OF SERVICE
 BY OCCUPATIONAL GROUP
 MAINE, 1990**

<u>OCCUPATIONAL CATEGORY</u>	<u>Average Length of Service (Years/Months)</u>
Executive, Administrative, and Managerial	6/10
Protective Service Occupations	5/9
Professional Specialty Occupations	5/7
Precision Production, Craft, and Repair Occupations	5/3
Technicians and Support Occupations	5/1
Machine Operators, Assemblers, and Inspectors	5/2
Administrative Support Occupations	5/1
Transportation and Material Moving Occupations	4/10
 ALL OCCUPATIONS	 4/6
 Sales Occupations	 4/1
Farming, Forestry, and Fishing Occupations	3/6
Service Occupations	3/2
Handlers, Cleaners, and Helpers	2/9

PART II

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	Number	Percent	Number	Percent	Number	Percent
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LOCAL GOVERNMENT	50,482	9.9	5,495	7.3	1,901	7.1
STATE GOVERNMENT	23,868	4.7	2,551	3.4	1,047	3.9

1. SOURCE: Division of Economic Analysis and Research, Bureau of Employment Security, Department of Labor.

INDUSTRY

Every industry division, except for the Construction division, experienced increases in the number of total cases over the previous year. This division also experienced a decrease in the total number of disabling injuries reported. In the table below, a ratio of 1.00 shows that the number of reports filed in a particular industry is in line with employment in that industry. The Construction Trades and Manufacturing had ratios much higher than 1.00, indicating hazardous work environments. Services and Finance, Insurance, and Real Estate are among the least hazardous industries in which to work.

**TABLE 6. AVERAGE EMPLOYMENT AND REPORTS, NUMBER, PERCENT AND RATIO
ALL AND DISABLING BY MAJOR INDUSTRIAL DIVISIONS
MAINE, 1990**

INDUSTRY DIVISION	REPORTS OF INJURIES AND ILLNESSES							
	AVERAGE EMPLOYMENT ¹		ALL			DISABLING		
	Number	Percent	Number	Percent	Ratio ²	Number	Percent	Ratio ³
ALL DIVISIONS	509,610	100.0	75,155	100.0	1.00	26,693	100.0	1.00
Manufacturing	101,879	20.0	25,725	34.2	1.71	8,571	32.1	1.61
Services	118,887	23.3	13,493	18.0	0.77	4,337	16.2	0.70
Retail	108,421	21.3	11,122	14.8	0.70	4,121	15.4	0.73
Construction	28,597	5.6	7,417	9.9	1.76	2,796	10.5	1.87
Wholesale	25,100	4.9	4,105	5.5	1.11	1,673	6.3	1.27
Trans. and Public Utilities	21,498	4.2	2,894	3.9	0.91	1,278	4.8	1.13
Fin., Ins., and Real Estate	25,086	4.9	1,257	1.7	0.34	422	1.6	0.32
Agric., Fish., and Forestry	5,629	1.1	889	1.2	1.07	444	1.7	1.51
Other, Private Sector	163	0.0	207	0.3	NA	103	0.4	NA
State and Local Government	74,350	14.6	8,046	10.7	0.73	2,948	11.0	0.76

1. SOURCE: Division of Economic Analysis and Research, Bureau of Employment Security, Department of Labor.

2. Percent of All Cases divided by percent of average employment.

3. Percent of Disabling Cases divided by percent of average employment.

MANUFACTURING

The Transportation Equipment, Fabricated Metals, and Food Products industries had the highest ratios of All reports to employment and of Disabling reports to employment. Conversely, the Printing and Apparel Making industries had the lowest ratios. The very physical nature of some jobs in the Manufacturing industry combined with the use of hand tools and machinery make the Manufacturing industry second only to Construction in terms of the number of reports filed exceeding the number expected.

**TABLE 7. AVERAGE EMPLOYMENT AND REPORTS, NUMBER, PERCENT AND RATIO
ALL AND DISABLING BY SELECTED MANUFACTURING GROUPS
MAINE, 1990**

MANUFACTURER	REPORTS OF INJURIES AND ILLNESSES							
	AVERAGE EMPLOYMENT ¹		ALL			DISABLING		
	Number	Percent	Number	Percent	Ratio ²	Number	Percent	Ratio ³
ALL MANUFACTURING	101,879	100.0	25,732	100.0	1.00	8,576	100.0	1.00
Transportation Eqpt.	15,351	15.1	6,555	25.5	1.69	2,170	25.3	1.68
Paper	17,550	17.2	4,552	17.7	1.03	1,177	13.7	0.80
Lumber and Wood	10,968	10.8	2,909	11.3	1.05	1,119	13.0	1.21
Leather	10,717	10.5	2,617	10.2	0.97	979	11.4	1.09
Food	7,067	6.9	2,065	8.0	1.16	725	8.5	1.22
Textiles	5,566	5.5	1,253	4.9	0.89	377	4.4	0.80
Elec./Electronic Eqpt.	8,121	8.0	906	3.5	0.44	348	4.1	0.51
Rubber and Plastics	3,539	3.5	892	3.5	1.00	342	4.0	1.15
Fabricated Metals	2,930	2.9	878	3.4	1.19	306	3.6	1.24
Machinery	4,661	4.6	865	3.4	0.73	283	3.3	0.72
Printing	5,800	5.7	609	2.4	0.42	215	2.5	0.44
Apparel	2,994	2.9	358	1.4	0.47	142	1.7	0.56
ALL OTHER MANUFACTURING	6,615	6.5	1,273	4.9	0.76	393	4.6	0.71

1. SOURCE: Division of Economic Analysis and Research, Bureau of Employment Security, Department of Labor.

2. Percent of All Cases divided by percent of average employment.

3. Percent of Disabling Cases divided by percent of average employment.

INSURANCE

The majority of employees injured in Maine (63.8 percent) were covered by private Workers' Compensation insurance in 1990. The self-insured workers account for 32.6 percent of all First Reports, while 3.6 percent of the employees had no Workers' Compensation insurance.

**TABLE 8. INSURANCE TYPE, NUMBER AND PERCENT, ALL AND DISABLING
 BY INSURANCE TYPE
 MAINE, 1990**

INSURANCE METHOD	REPORTS OF INJURIES AND ILLNESSES			
	ALL		DISABLING	
	Number	Percent	Number	Percent
ALL	75,155	100.0	26,693	100.0
Private	47,952	63.8	17,213	64.5
Self-Insured	24,486	32.6	8,390	31.4
Not-Insured	2,717	3.6	1,090	4.1

COUNTY OF OCCURRENCE

The three counties with the greatest number of reports filed were Cumberland, Penobscot, and York. These three counties were also among the top four for average employment. Dividing the percent of reports by the percent of employment provides a better perspective. A ratio of 1.00 shows that the number of reports filed in the county are in line with the employment.

As the table illustrates, the number of reports filed in Cumberland, Penobscot, and York counties are not disproportionate when compared to the average annual employment. The four counties having ratios of well over 1.00 are Franklin, Oxford, Sagadahoc, and Somerset. High ratios tend to show a concentration of hazardous industries.

**TABLE 9. AVERAGE EMPLOYMENT AND REPORTS
PERCENT AND RATIO, ALL AND DISABLING, BY COUNTY
MAINE, 1990**

COUNTY	1 AVERAGE EMPLOYMENT (Percent)	REPORTS OF INJURIES AND ILLNESSES			
		ALL		DISABLING	
		Percent	Ratio ²	Percent	Ratio ³
ALL COUNTIES	100.0	100.0	1.00	100.0	1.00
Androscoggin	8.0	8.2	1.03	7.5	0.93
Aroostook	5.6	5.7	1.02	5.8	1.04
Cumberland	26.9	23.1	0.86	24.5	0.91
Franklin	2.3	2.5	1.11	2.1	0.93
Hancock	3.6	3.5	0.98	3.6	1.02
Kennebec	10.8	8.6	0.80	9.1	0.84
Knox	2.7	2.6	0.95	2.4	0.91
Lincoln	1.7	1.4	0.82	1.5	0.85
Oxford	3.2	3.7	1.14	3.6	1.11
Penobscot	12.2	12.4	1.02	12.0	0.99
Piscataquis	1.2	1.2	1.02	1.2	1.07
Sagadahoc	3.6	8.0	2.24	7.6	2.13
Somerset	3.2	4.8	1.47	4.5	1.38
Waldo	1.3	1.0	0.78	1.0	0.79
Washington	2.1	2.3	1.08	2.1	0.97
York	9.9	8.8	0.89	8.8	0.89
Interstate	1.7	-	-	-	-
Other States		0.8	-	1.1	-
Other Country		0.1	-	0.1	-
Unknown		1.2	-	1.4	-

1. SOURCE: Percentages were calculated from data provided by the Division of Economic Analysis and Research, Bureau of Employment Security, Department of Labor.

2. Percent of All Cases divided by the percent of average annual employment.

3. Percent of Disabling Cases divided by the percent of average employment.

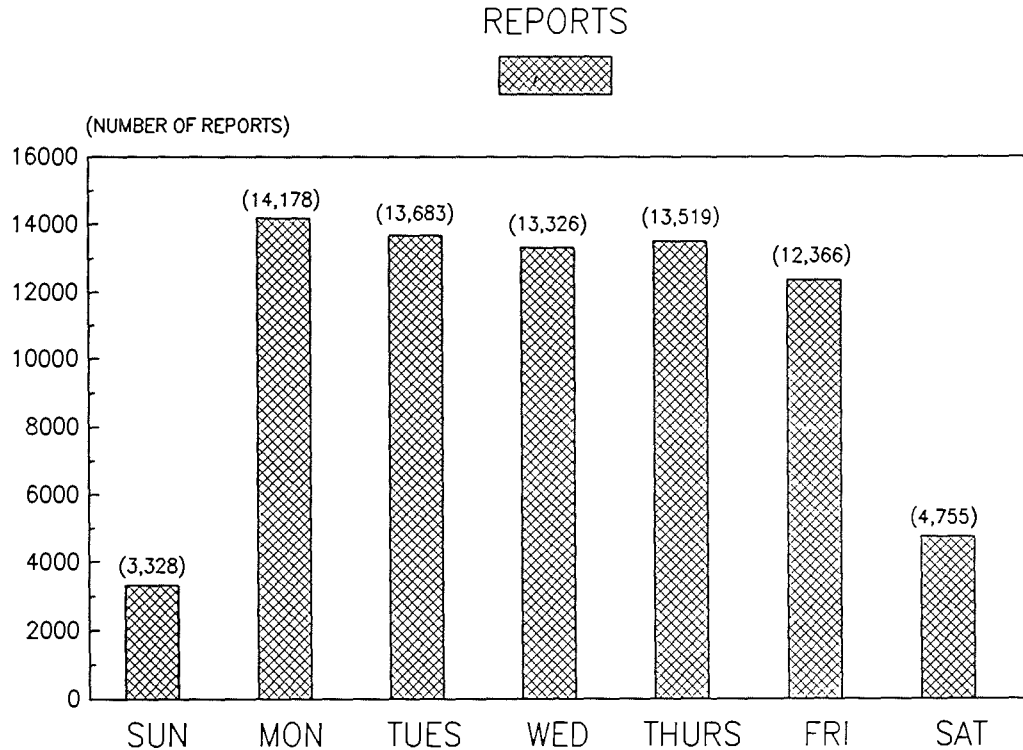
PART III

CHARACTERISTICS OF INCIDENTS

DAY OF THE WEEK

As expected, 89.2 percent of all injuries and illnesses occurred on weekdays. The highest number of reported cases were for injuries or illnesses that occurred on Mondays. Of the weekdays, Friday had the lowest number of reported cases.

**FIGURE 2. DAY OF THE WEEK, NUMBER OF FIRST REPORTS
ALL CASES, MAINE, 1990**

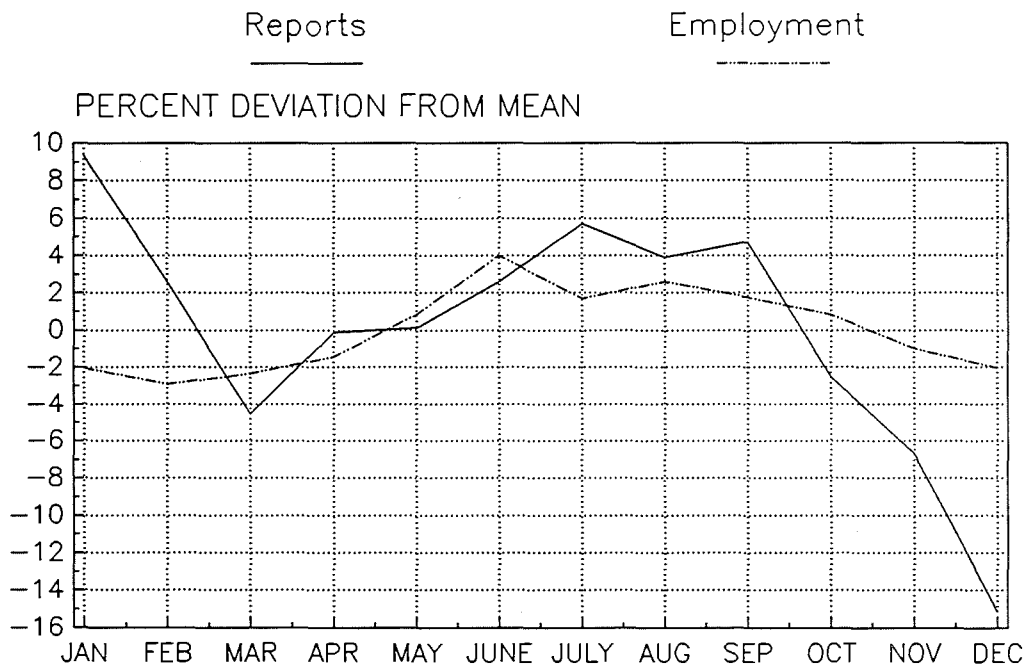


MONTH

Figure 3 illustrates the relationship between the number of cases occurring per month and the employment per month. Because the number of workdays in each month differs, the number of occurrences were adjusted to reflect what the number of cases would be based upon the average number of workdays in a month (total workdays per year divided by 12). Weekends and holidays were not included. Employment figures were not adjusted because they reflect actual employment in a month and are not subject to change due to the differing number of workdays.

Generally, the deviation in the number of cases occurring in a month from the mean cases occurring per month over the year was greater than the deviation in monthly employment from the mean annual employment. In March, April, and May, employment in logging decreases, leading to a reduction in the number of reports filed. In July, August, and September, employment in Maine increases. Many of these jobs are seasonal and are occupied by young and inexperienced employees. Additionally, construction companies are very busy in the summer, generally peaking in September.

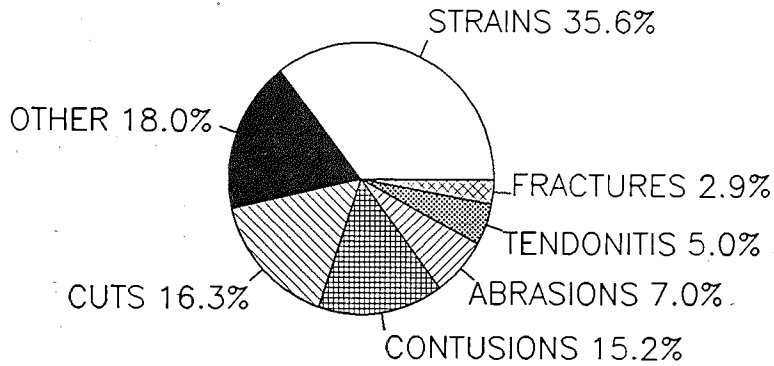
FIGURE 3. PERCENT DEVIATION FROM MEAN, FIRST REPORTS EMPLOYMENT BY MONTH, MAINE 1990



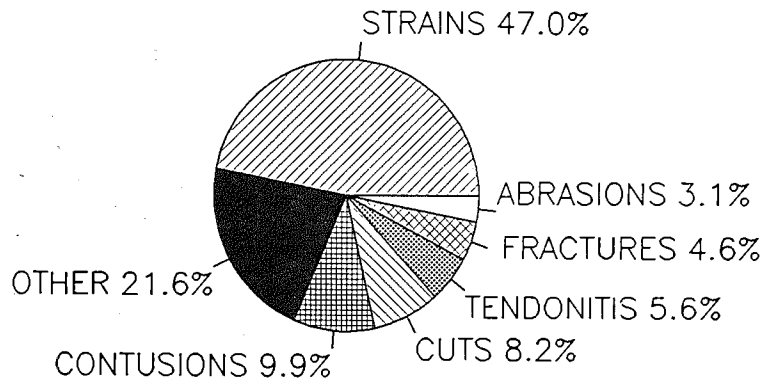
NATURE OF INJURY OR ILLNESS

The Nature of Injury or Illness classification identifies the principle physical characteristic, that is, what the actual injury or illness was. The pie charts below illustrate the percent of total for All and for Disabling natures.

**FIGURE 4A. NATURE OF INJURY OR ILLNESS
ALL CASES, MAINE, 1990**



**FIGURE 4B. NATURE OF INJURY OR ILLNESS
DISABLING CASES, MAINE, 1990**



OCCUPATIONAL ILLNESSES

Occupational illnesses made up only 11.0 percent of the total Workers' Compensation cases received in 1990. Inflammation of the joints and tendons, including tendonitis and bursitis, represented the majority of all illness cases reported, a total of 44.9 percent. Such cases are usually the result of prolonged exertion of a specific area of the body (most often the upper extremities). Dermatitis, which includes rashes, is the second most frequent occupational illness, 12.3 percent. Conditions of the Nervous System, including carpal tunnel syndrome, account for the next largest portion of occupational illnesses.

**TABLE 10. OCCUPATIONAL ILLNESSES, NUMBER AND PERCENT
ALL AND DISABLING
MAINE, 1990**

ILLNESS	ALL REPORTS		ILLNESS	DISABLING REPORTS	
	Number	Percent		Number	Percent
TOTAL	8,286	100.0	TOTAL	3,307	100.0
Inflammation of Joints, Tendons, etc.	3,724	44.9	Inflammation of Joints, Tendons, etc.	1,487	45.0
Dermatitis	1,020	12.3	Mental Disorders	302	9.1
Nervous System	658	7.9	Nervous System	349	10.6
Systemic Effects of Toxics	560	6.8	Dermatitis	220	6.7
Mental Disorders	451	5.4	Systemic Effects of Toxics	216	6.5
Radiation Effects	300	3.6	Radiation Effects	110	3.3
Respiratory Conditions	165	2.0	Respiratory Conditions	78	2.4
Infective and Parasitic Diseases	140	1.7	Heart Conditions	77	2.3
Heart Conditions	101	1.2	Infective and Parasitic Diseases	50	1.5
Other Illnesses	1,167	14.1	Other Illnesses	418	12.6

PART OF BODY AFFECTED

This group identifies the part or body system of the injured or ill person's body that was directly affected by the injury or illness.

FIGURE 5A. PART OF BODY AFFECTED ALL CASES, MAINE, 1990

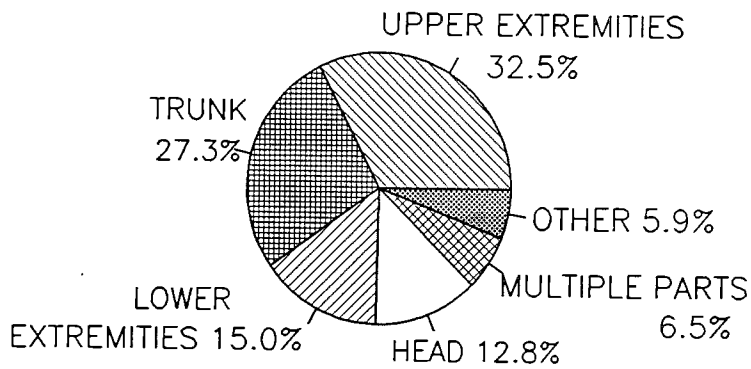
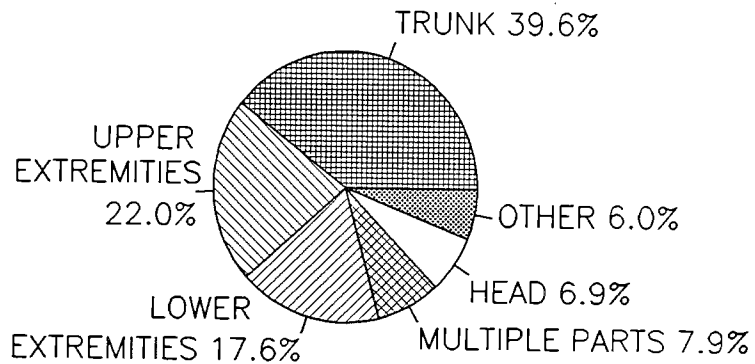


FIGURE 5B. PART OF BODY AFFECTED DISABLING CASES, MAINE, 1990



SOURCE OF INJURIES AND ILLNESSES

The Source classification identifies the object, substance, exposure, or bodily motion which directly produced or inflicted the injury or illness. Working surfaces, metal items, and containers, were most often cited as sources of injury or illness for All cases and for Disabling cases.

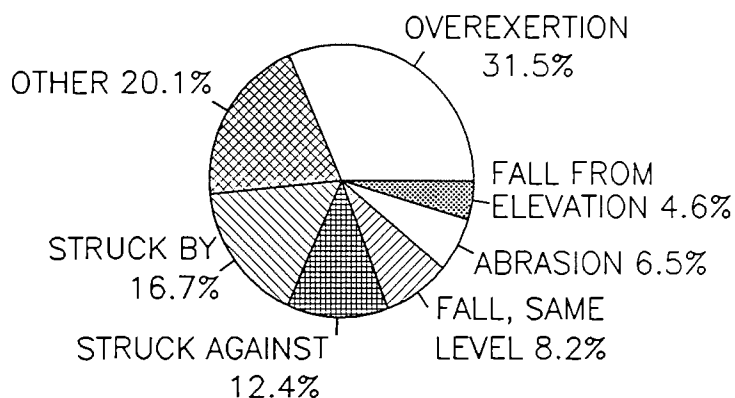
**TABLE 11. SOURCE OF INJURIES AND ILLNESSES, NUMBER AND PERCENT
ALL AND DISABLING
MAINE, 1990**

SOURCE	ALL REPORTS		SOURCE	DISABLING REPORTS	
	Number	Percent		Number	Percent
TOTAL	75,155	100.0	TOTAL	26,693	100.0
Working Surfaces	8,786	11.7	Working Surfaces	3,708	13.9
Metal Items	7,538	10.0	Containers	3,369	12.6
Containers	7,495	10.0	Metal Items	1,976	7.4
Hand Tools, Unpowered	6,006	8.0	Vehicles	1,806	6.8
Vehicles	4,315	5.7	Bodily Motion	1,480	5.5
Machines	4,267	5.7	Person	1,438	5.4
Person	3,677	4.9	Machines	1,348	5.1
Bodily Motion	3,229	4.3	Hand Tools, Unpowered	1,257	4.7
Wood Items	2,642	3.5	Wood Items	837	3.1
Furniture and Fixtures	2,604	3.5	Furniture and Fixtures	778	2.9
Buildings and Structures	2,383	3.2	Buildings and Structures	711	2.7
Chemicals	1,898	2.5	Hand Tools, Powered	569	2.1
Hand Tools, Powered	1,421	1.9	Chemicals	498	1.9
Particles, Unspecified	1,364	1.8	Plants, Trees, etc.	292	1.1
Mineral Items, Nonmetallic	1,013	1.3	Mineral Items, Nonmetallic	284	1.1
Plants, Trees, etc.	600	0.8	Particles, Unspecified	190	0.7
All Other	15,917	21.2	All Other	6,152	23.0

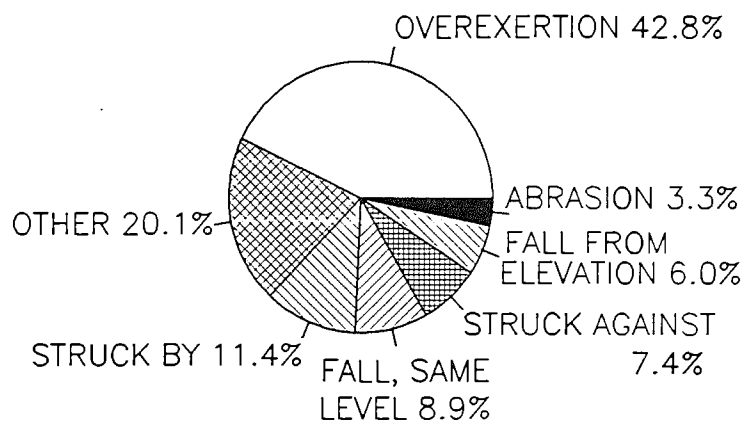
TYPE OF ACCIDENT OR EXPOSURE

The Type of accident or exposure classification identifies the event or action which directly resulted in the injury or illness. The pie charts below illustrate the percent of total, by type, for All cases and for Disabling cases.

**FIGURE 6A. TYPE OF ACCIDENT OR EXPOSURE
ALL CASES, MAINE, 1990**



**FIGURE 6B. TYPE OF ACCIDENT OR EXPOSURE
DISABLING CASES, MAINE, 1990**



ASSOCIATED OBJECT OR SUBSTANCE

The Associated Object or Substance (AOS) identifies the object, substance or person with respect to which measures could have been introduced to prevent the accident or ease the injury or illness. The relationship between the AOS and the Source may be directly or indirectly causal. In the instance of a worker who cut a finger by touching against a moving table saw blade, the Source and the AOS would be the same object -- the saw, because no other object had a direct relationship to the accident. However, if a forklift ran into a worker, causing the worker to fall into the table saw, thus cutting the finger, the Source would still be the saw since it actually cut the finger but the AOS would now be the forklift because it started the accident sequence.

Working Surfaces, Containers, and Unpowered Hand Tools respectively were the most frequently cited AOS categories for All cases whereas Containers, Working Surfaces, and Vehicles respectively were most frequently cited for Disabling cases.

**TABLE 12. ASSOCIATED OBJECT OR SUBSTANCE, NUMBER AND PERCENT
ALL AND DISABLING
MAINE, 1990**

AOS	ALL REPORTS		AOS	DISABLING REPORTS	
	Number	Percent		Number	Percent
TOTAL	75,155	100.0	TOTAL	26,693	100.0
Working Surfaces	7,934	10.6	Containers	3,373	12.6
Containers	7,564	10.1	Working Surfaces	3,266	12.2
Hand Tools, Unpwd.	6,553	8.7	Vehicles	2,140	8.0
Metal Items	5,481	7.3	Person	2,066	7.7
Vehicles	5,082	6.8	Machines	1,532	5.7
Machines	4,993	6.6	Metal Items	1,507	5.6
Person	4,910	6.5	Hand Tools, Unpwd.	1,351	5.1
Furniture and Fixtures	3,038	4.0	Bodily Motion	989	3.7
Hand Tools, Powered	3,027	4.0	Hand Tools, Powered	935	3.5
Wood Items	2,282	3.0	Furniture and Fixtures	897	3.4
Bldgs. and Structures	2,276	3.0	Wood Items	799	3.0
Bodily Motion	2,258	3.0	Bldgs. and Structures	682	2.6
All Other	19,757	26.3	All Other	7,156	26.8

NATURE BY PART COMBINATIONS

Figures found in Table 13 show which nature/part combinations for injuries in the workplace were the most prevalent in 1990. Strains to the back and cuts to the fingers greatly exceeded any other combinations of injuries occurring that year.

**TABLE 13. NATURE OF INJURIES AND ILLNESSES, PERCENT
BY PART OF BODY AFFECTED
MAINE, 1990**

NATURE	PART							
	Total	Upper Extremities ¹	Finger	Back	Lower Extremities	Trunk ²	Eyes	Other
TOTAL	100.0	18.4	14.2	16.7	15.0	10.6	8.2	16.9
Strains, Sprains	35.6	4.4	1.0	14.3 (1)	6.0 (4)	6.1 (3)	-	3.8
Cuts, Lacerations	16.4	3.7	8.9 (2)	-	1.7	0.2	0.3	1.6
Contusions, Bruises	15.2	3.2	2.2	0.8	4.3	1.9	0.2	2.6
Scratches, Abrasions	7.0	0.4	0.2	-	0.2	-	5.8 (5)	0.4
Other	25.8	6.7	1.9	1.6	2.8	2.4	1.9	8.5

1. Except Fingers

2. Except Back

NOTE: Ranking of the five most frequent combinations are shown in parentheses.

NATURE BY TYPE COMBINATIONS

Table 14 elaborates further on the information in Table 13. For example, back sprains were the most frequent nature/part combination noted in Table 13. From Table 14 we can see that most strains were due to overexertion (lifting, pushing, handling, etc.).

Cuts to the fingers were the second most frequent combination noted in Table 13. Table 14 reveals that most cuts were the result of striking against objects or being struck by objects. Most bruises occurred this way also.

**TABLE 14. NATURE OF INJURIES AND ILLNESSES, PERCENT
BY TYPE OF ACCIDENT OR EXPOSURE
MAINE, 1990**

NATURE	Total	TYPE					
		Struck By or Against	Over- exertion	1 Fall	Rubbed or Abraded	Caught In Under or Between	Other
TOTAL	100.0	29.2	31.5	12.8	6.5	3.0	17.0
Strains, Sprains	35.6	2.0	24.7 (1)	3.9	0.2	0.2	4.6
Cuts, Lacerations	16.4	14.2 (2)	-	0.6	0.4	0.6	0.6
Contusions, Bruises	15.2	8.6 (3)	0.1	4.7 (5)	-	1.4	0.4
Scratches, Abrasions	7.0	0.9	-	0.2	5.6 (4)	-	0.3
Other	25.8	3.5	6.7	3.4	0.3	0.8	11.1

1. Includes fall to same level and fall to lower level.

NOTE: Ranking of the five most frequent combinations are shown in parentheses.

NATURE BY SOURCE COMBINATIONS

Following in progression from Table 13, more can be learned about the two most frequent nature/part combinations. Table 15 illustrates that most strains involved containers as the source. If you recall, the most frequent cause of strains was overexertion. Hence, we can conclude that many strains are the result of lifting, pushing or handling containers. Similarly, we can see that most lacerations involve the use of nonpowered hand tools (e.g., knives, wrenches, and screwdrivers). Metal items are also a significant source of cuts. Hence, we can conclude that many cuts are due to being struck by or against knives, wrenches, and other hand tools or metal items.

TABLE 15. NATURE OF INJURIES AND ILLNESSES, PERCENT BY SOURCE OF INJURIES AND ILLNESSES MAINE, 1990

NATURE	Total	SOURCE						
		Working Surface	Metal Items	Boxes Bags Barrels	Hand Tool Not Pwd	Machines	Vehicles	Other
TOTAL	100.0	11.7	10.0	10.0	8.0	5.7	5.7	48.9
Strains, Sprains	35.6	4.1 (3)	2.0	6.7 (1)	1.5	1.1	2.1	18.1
Cuts, Lacerations	16.4	0.3	3.3 (5)	0.8	5.0 (2)	1.9	0.6	4.5
Contusion, Bruises	15.2	3.9 (4)	1.4	1.1	0.6	1.0	1.6	5.6
Scratches, Abrasions	7.0	0.2	2.1	0.1	0.1	0.1	0.1	4.3
Other	25.8	3.2	1.2	1.3	0.8	1.6	1.3	16.4

NOTE: Ranking of the five most frequent combinations are shown in parentheses.

SOURCE BY TYPE COMBINATIONS

Falls to the working surface was the number one combination of Source/Type, occurring in 10.8 percent of All Cases. The second most frequent combination was overexertion while handling containers. Many claims were also filed as a result of being struck by or against nonpowered hand tools.

**TABLE 16. SOURCE OF INJURIES AND ILLNESSES, PERCENT
BY TYPE OF ACCIDENT OR EXPOSURE
MAINE, 1990**

SOURCE	Total	TYPE OF ACCIDENT OR EXPOSURE					
		Struck By or Against	Over- exertion	1 Fall	Rubbed or Abraded	Caught In Under or Between	Other
TOTAL	100.0	29.2	31.5	12.8	6.5	3.0	17.0
Working Surfaces	11.7	0.4	0.1	10.8 (1)	0.3	-	0.1
Metal Items	10.0	5.1 (4)	2.0	0.3	2.2	0.3	0.1
Containers	10.0	2.2	7.2 (2)	0.2	0.1	0.3	-
Hand Tools-not Pwd.	8.0	5.8 (3)	2.0	-	-	0.1	0.1
Machines	5.7	2.6	2.0	0.2	-	0.7	0.2
Vehicles	5.7	1.9	1.5	0.4	0.1	0.6	1.2
Person	4.9	1.1	3.1 (5)	-	-	-	0.7
Wood Items	3.5	1.7	1.1	0.1	0.5	0.1	-
Other	40.5	8.4	12.5	0.8	3.3	0.9	14.6

1. Includes fall to same level and fall to lower level.

NOTE: Ranking of the five most frequent combinations are shown in parentheses.

AOS BY TYPE COMBINATIONS

As stated previously, the AOS is the object, substance, or person with respect to which measures could have been introduced to prevent the accident or mitigate the injury or illness. Table 17 illustrates that working surfaces, in some instances wet or slippery, resulted in many accidents. Use of unpowered hand tools also resulted in many injuries, as did the handling of containers. Further, the use of machines, or in some instances items propelled from machines, was another notable AOS.

**TABLE 17. ASSOCIATED OBJECT OR SUBSTANCE, PERCENT
BY TYPE OF ACCIDENT OR EXPOSURE
MAINE, 1990**

AOS	Total	TYPE OF ACCIDENT OR EXPOSURE					
		Struck By or Against	Over- exertion	Fall ¹	Rubbed or Abraded	Caught In Under Between	Other
TOTAL	100.0	29.2	31.5	12.8	6.5	3.0	17.0
Working Surfaces	10.6	0.6	0.5	7.4 (1)	0.3	-	1.8
Containers	10.1	2.0	7.1 (2)	0.4	0.1	0.3	0.2
Hand Tools-Not Pwd	8.7	6.3 (3)	1.9	0.1	0.2	0.1	0.1
Metal Items	6.9	3.7 (4)	1.9	0.2	0.6	0.3	0.2
Vehicles	6.8	2.1	1.4	0.9	0.3	0.6	1.5
Machines	6.6	2.9	2.0	0.2	0.6	0.7	0.2
Person	5.4	1.2	3.1 (5)	0.3	-	-	0.8
Hand Tools-Powered	4.0	1.2	0.8	-	1.2	0.1	0.7
Other	40.9	9.2	12.8	3.3	3.2	0.9	11.5

1. Includes fall to same level and fall to lower level.

NOTE: Ranking of the five most frequent combinations are shown in parentheses.

PART IV

CHARACTERISTICS OF FATALITIES

Table 18 is a ten-year summary of the fatalities reported to the Workers' Compensation Commission. Figures for 1984 include all reports in our files, but may not include all fatalities reported that year. Forty-one percent of all fatalities occurring during this ten-year period were a result of heart attacks. The Workers' Compensation Commission determines whether such incidents are work-related. In 1990 there were 61 reported fatalities. Over thirty-seven percent of these deaths were attributed to heart attacks. Thirty people died as a result of injuries received during work hours; eleven of these individuals were involved in automobile accidents.

Over the past ten years, an average of 80 percent of fatalities involved workers in the private sector. Over 28 percent of all fatalities were to workers in Manufacturing industries.

**TABLE 18. SELECTED CHARACTERISTICS OF FATALITIES
BY YEAR, MAINE, 1981-1990**

DESCRIPTION	YEAR									
	1981	1982	1983	1984 ¹	1985 ²	1986	1987	1988	1989	1990 ³
TOTAL FATALITIES	50	53	36	27	45	45	50	54	53	61
Fatalities Due to Injuries	26	23	21	13	22	25	22	33	27	30
Fatalities Due to Heart Attacks	22	28	12	10	21	15	23	18	22	23
Fatalities Due to Illnesses (except Heart Attack)	2	2	3	4	0	5	5	3	4	4
Occurring to Females	0	5	2	3	1	6	6	1	2	7
Multiple Death Incidents (Number of Fatalities)	3 (6)	1 (2)	1 (2)	1	2 (4)	0	1 (2)	1 (2)	1 (2)	1 (2)
Auto Occupant	8	13	7	6	4	9	2	8	5	11
Trees Falling	0	0	1	1	2	0	2	3	4	3

1. Fatality figures for 1984 are incomplete.
2. In 1985, there were 2 fatalities of unknown cause.
3. In 1990, there were 4 fatalities of unknown cause.

TABLE 19.

**INDUSTRY OF FATAL WORKERS, NUMBER
BY YEAR
MAINE, 1981-1990**

INDUSTRY	YEAR										
	Ten-Year Total	1981	1982	1983	1984 ¹	1985	1986	1987	1988	1989	1990
ALL INDUSTRIES	474	50	53	36	27	45	45	50	54	53	61
Private Sector	384	36	42	31	22	38	35	43	45	43	49
Agriculture, Forestry, Fishing (01-09)	12	0	1	0	2	0	2	0	1	1	5
Mining (10-14)	1	1	0	0	0	0	0	0	0	0	0
Construction (15-17)	62	7	8	4	2	8	7	6	6	10	4
General Building (15)	25	2	5	1	1	6	2	3	2	3	0
Non Building (16)	16	0	3	2	0	0	3	1	0	5	2
Special Trade (17)	21	5	0	1	1	2	2	2	4	2	2
Manufacturing (20-39)	136	7	19	12	10	12	7	15	16	20	18
Food (20)	7	0	0	1	0	2	0	0	2	1	1
Textiles (22)	4	1	2	0	0	0	0	1	0	0	0
Lumber and Wood (24)	44	1	6	2	3	2	3	9	5	6	7
Paper (26)	33	1	3	2	2	4	0	4	7	4	6
Transportation Equipment (37)	15	0	0	4	3	0	2	1	0	5	0
Transportation and Util. (40-49)	51	5	5	3	2	8	8	3	11	3	3
Trucking and Warehousing (42)	29	2	3	1	2	4	7	1	7	2	0
Air Transport (45)	4	0	0	0	0	2	0	0	0	0	2
Utilities and Sanitary Svcs (49)	8	1	1	2	0	0	1	2	1	0	0
Wholesale Trade (50-51)	21	3	3	2	1	1	2	2	2	2	3
Retail Trade (50-51)	40	6	3	1	4	1	1	8	7	2	7
Auto Dealers/Gas Stations (55)	12	3	1	0	2	1	1	1	1	1	1
Eating and Drinking Places (58)	6	3	0	0	2	0	0	0	1	0	0
Finance, Insurance, Real Est (60-64)	9	0	0	0	1	2	2	1	0	2	1
Services (70-89)	52	7	3	9	0	6	6	8	2	3	8
Public Sector	90	14	11	5	5	7	10	7	9	10	12
State	36	5	4	3	1	4	7	0	3	2	7
Highways (16)	6	2	0	0	0	3	0	0	0	0	1
Social Services (83)	4	2	0	2	0	0	0	0	0	0	0
Public Safety (92)	7	1	2	0	0	0	1	0	1	1	1
Administration (91,92-98)	17	0	2	1	1	1	6	0	2	1	3
Local	54	9	7	2	4	3	3	7	6	8	5
Highways (16)	4	0	0	1	0	1	0	0	1	1	0
Water, Sewer, Dumps (49)	8	3	0	1	1	0	0	0	2	1	0
Parks and Recreation (79)	5	1	-	-	-	-	2	0	0	2	0
Schools (82)	10	2	4	0	1	2	0	1	0	0	0
Public Safety (92)	23	3	3	0	2	0	0	4	3	3	5
Administration (91,93-98)	3	-	-	-	-	-	-	2	0	1	0

1. Fatality figures for 1984 are incomplete.

Of the 61 fatalities reported in 1990, nine were workers in the occupational category of Transportation and Material Movers, eight were Services Workers (including amusement services, health services, educational institutions), seven in the Protective Services (including police and firefighters), and another seven in Precision Production, Craft and Repair Workers (including mechanics and construction and trades workers).

TABLE 20. OCCUPATIONS OF FATAL WORKERS, NUMBER AND PERCENT BY INJURIES AND ILLNESSES MAINE, 1990

CATEGORY	TOTAL		INJURIES		ILLNESSES	
	Number	Percent	Number	Percent	Number	Percc
ALL WORKERS	59 ¹	100.0	32	100.0	27	100
Transportation and Material Movers	9	15.3	8	25.0	1	3
Other Services	8	13.6	4	12.5	4	14
Precision Production, Craft and Repair	7	11.9	3	9.4	4	14
Protective Service Workers	7	11.9	3	9.4	4	14
Handlers, Equipment Cleaners, Laborers	6	10.2	0	0.0	6	22
Farming, Fishing, Forestry	5	8.5	5	15.6	0	0
Machine Operators, Assemblers, Inspector	5	8.5	2	6.3	3	11
Executive, Administrative, Managerial	5	8.5	2	6.3	3	11
Professional Specialty	4	6.8	2	6.3	2	7
Technicians and Support	1	1.7	1	3.1	0	0
Sales	1	1.7	1	3.1	0	0
Administrative Support - Clerical	1	1.7	1	3.1	0	0
Private Household Workers	0	0.0	0	0.0	0	0
State, Military Occupations	0	0.0	0	0.0	0	0
Unknown	0	0.0	0	0.0	0	0

1. Unknown injuries and illnesses were omitted.

As shown in Table 21, nearly all deceased workers age 35 and under died as a result of an injury whereas most deceased workers age 41 and over died as a result of an illness. In the latter group of workers, heart attacks were a big factor.

In the age category 41-45, the number of fatalities is much lower than the number of fatalities for age categories surrounding this group. Workers between the ages of 41 and 45 are likely to have a good deal of work experience and are often too young to be considered heart attack candidates.

TABLE 21. AGE OF FATAL WORKERS, NUMBER AND PERCENT BY INJURIES AND ILLNESSES MAINE, 1981-1990

AGE SPAN	TEN-YEAR TOTAL ¹		INJURIES		ILLNESSES	
	Number	Percent	Number	Percent	Number	Percent
TOTAL	445	100.0	248	100.0	197	100.0
16-20	24	5.4	24	9.7	0	0.0
21-25	31	7.0	31	12.5	0	0.0
26-30	36	8.1	36	14.5	0	0.0
31-35	53	11.9	43	17.3	10	5.1
36-40	38	8.5	22	8.9	16	8.1
41-45	34	7.6	12	4.8	22	11.2
46-50	48	10.8	24	9.7	24	12.2
51-55	62	13.9	21	8.5	41	20.8
56-60	67	15.1	18	7.3	49	24.9
61-65	21	4.7	5	2.0	16	8.1
66-70	14	3.1	5	2.0	9	4.6
71-75	12	2.7	6	2.4	6	3.0
Over 75	5	1.1	1	0.4	4	2.0

1. Fatality figures for 1984 are incomplete.

NOTE: Figures do not include reports with unknown age.

The link between injuries and illnesses and job experience becomes more visible when reviewing Table 22. Those individuals with less than two years of service with a company account for 58.7 percent of all fatalities due to injuries. Those with over 15 years of service with a company account for 34.1 percent of all fatalities resulting from an illness, including heart attacks. Hence, injury is tied to inexperience while illness may be linked to exposure and advancing age.

**TABLE 22. LENGTH OF SERVICE OF FATAL WORKERS
NUMBER, BY INJURIES AND ILLNESSES
MAINE, 1981-1990**

LENGTH OF SERVICE	1		
	TEN-YEAR TOTAL	INJURIES	ILLNESSES
	Number	Number	Number
TOTAL	378	211	167
Under 1 Month	55	43	12
1 Month to 6 Months	52	37	15
6 Months to 12 Months	36	24	12
1 Year up to 2 Years	30	20	10
2 Years up to 3 Years	22	13	9
3 Years up to 4 Years	12	6	6
4 Years up to 5 Years	14	7	7
5 Years up to 10 Years	50	30	20
10 Years up to 15 Years	35	16	19
15 Years up to 35 Years	72	15	57

1. Fatality figures for 1984 are incomplete.

NOTE: Figures do not include reports with unknown length of service.

TABLE 23.

**NATURE OF INJURIES AND ILLNESSES
NUMBER AND PERCENT, BY SEVERITY
MAINE, 1990**

REPORTS OF INJURIES AND ILLNESSES							
CODES	NATURE OF INJURY OR ILLNESS	ALL		DISABLING		FATAL	
		Number	Percent	Number	Percent	Number	Percent
	TOTAL	75,155	100.0	26,693	100.0	61	100.0
100	AMPUTATION OR ENUCLEATION	48	0.1	48	0.2	0	0.0
110	ASPHYXIA, STRANGULATION DROWNING, SUFFOCATION	3	0.0	0	0.0	3	4.9
120	HEAT BURN	1,464	1.9	399	1.5	0	0.0
130	CHEMICAL BURN	1,096	1.5	234	0.9	0	0.0
140	CONCUSSION	141	0.2	80	0.3	0	0.0
15-	INFECTIVE OR PARASITIC DISEASE	140	0.2	57	0.2	0	0.0
160	CONTUSION, CRUSHING, BRUISE	11,457	15.2	2,635	9.9	1	1.6
170	CUT, LACERATION, PUNCTURE	12,289	16.4	2,187	8.2	2	3.3
18-	DERMATITIS	1,020	1.4	220	0.8	0	0.0
185	- Contact Dermatitis	796	1.1	169	0.6	0	0.0
190	DISLOCATION	843	1.1	540	2.0	0	0.0
200	ELECTRIC SHOCK, ELECTROCUTION	98	0.1	35	0.1	1	1.6
210	FRACTURE	2,199	2.9	1,234	4.6	6	9.8
220	EFFECTS OF EXPOSURE TO LOW TEMP.	37	0.0	8	0.0	0	0.0
230	HEARING LOSS OR IMPAIRMENT	101	0.1	4	0.0	0	0.0
240	EFFECTS OF ENVIRONMENTAL HEAT	58	0.1	12	0.0	0	0.0
250	HERNIA, RUPTURE	346	0.5	341	1.3	0	0.0
260	INFLAM./IRR. OF TENDONS/MUSCLES	3,724	5.0	1,487	5.6	0	0.0
27-	SYSTEMIC POISONING	560	0.7	216	0.8	0	0.0
28-	PNEUMOCONIOSIS	23	0.0	2	0.0	1	1.6
29-	RADIATION EFFECTS	300	0.4	110	0.4	0	0.0
295	- Welders Flash	290	0.4	103	0.4	0	0.0
300	SCRATCHES, ABRASIONS	5,261	7.0	823	3.1	0	0.0
310	SPRAINS, STRAINS	26,719	35.6	12,551	47.0	0	0.0
320	HEMORRHOIDS	7	0.0	4	0.0	0	0.0
330	HEPATITIS, SERUM AND INFECTIVE	3	0.0	1	0.0	0	0.0
400	MULTIPLE INJURIES	937	1.2	440	1.6	9	14.8
500	EFFECTS OF CHANGE IN ATMOS.PRES.	6	0.0	2	0.0	0	0.0
510	CEREBRO. & OTH. CIRCULATORY SYS.	31	0.0	24	0.1	0	0.0
520	COMPLICATIONS DUE TO MED. CARE	6	0.0	2	0.0	0	0.0
530	OTHER DISEASES OF THE EYE	147	0.2	23	0.1	0	0.0
540	MENTAL DISORDERS - INC. STRESS	451	0.6	302	1.1	0	0.0
55-	MALIGNANT NEOPLASM, TUMOR	11	0.0	6	0.0	2	3.3
56-	CONDITIONS OF NERVOUS SYSTEM	658	0.9	349	1.3	0	0.0
57-	CONDITIONS OF RESPIRATORY SYS.	165	0.2	78	0.3	0	0.0
580	SYMPTOMS AND ILL-DEFINED COND.	755	1.0	312	1.2	1	1.6
900	NO INJURY OR ILLNESS	467	0.6	37	0.1	0	0.0
950	DAMAGE TO PROSTHETIC DEVICES	514	0.7	5	0.0	0	0.0
990	OTHER OCCUPATIONAL DISEASE	40	0.1	23	0.1	0	0.0
991	HEART COND. - INC. HEART ATTACKS	101	0.1	77	0.3	22	36.1
995	OTHER INJURIES	47	0.1	7	0.0	0	0.0
999	NONCLASSIFIABLE	2,882	3.8	1,778	6.7	13	21.3

TABLE 24.

**PART OF BODY AFFECTED
NUMBER AND PERCENT, BY SEVERITY
MAINE, 1990**

		REPORTS OF INJURIES AND ILLNESSES					
		ALL		DISABLING		FATAL	
CODES	PART OF BODY AFFECTED	Number	Percent	Number	Percent	Number	Percent
	TOTAL	75,155	100.0	26,693	100.0	61	100.0
1--	HEAD	9,664	12.9	1,829	6.9	3	4.9
100	Head, Unspecified	432	0.6	132	0.5	0	0.0
110	Brain	148	0.2	87	0.3	1	1.6
12-	Ear(s)	293	0.4	36	0.1	0	0.0
120	Ear(s), Unspecified	16	0.0	3	0.0	0	0.0
121	Ear(s), External	65	0.1	11	0.0	0	0.0
124	Ear(s), Internal	212	0.3	22	0.1	0	0.0
130	Eye(s)	6,133	8.2	1,146	4.3	0	0.0
14-	Face	1,884	2.5	292	1.1	0	0.0
140	Face, Unspecified	138	0.2	27	0.1	0	0.0
141	Jaw	138	0.2	24	0.1	0	0.0
144	Mouth	610	0.8	67	0.3	0	0.0
146	Nose	235	0.3	37	0.1	0	0.0
148	Face, Multiple Parts	252	0.3	57	0.2	0	0.0
149	Face, Other	511	0.7	80	0.3	0	0.0
150	Scalp	654	0.9	98	0.4	0	0.0
160	Skull	11	0.0	8	0.0	2	3.3
198	Head, Multiple Parts	109	0.1	30	0.1	2	3.3
200	NECK	1,311	1.7	546	2.0	0	0.0
3--	UPPER EXTREMITIES	24,446	32.5	5,883	22.0	0	0.0
300	Upper Extrem., Unsp.	67	0.1	5	0.0	0	0.0
31-	Arm(s)	4,621	6.1	1,274	4.8	0	0.0
310	Arm(s), Unspecified	1,379	1.8	461	1.7	0	0.0
311	Upper Arm	274	0.4	82	0.3	0	0.0
313	Elbow	1,663	2.2	436	1.6	0	0.0
315	Forearm	1,082	1.4	218	0.8	0	0.0
318	Arm, Multiple	221	0.3	77	0.3	0	0.0
320	Wrist	3,568	4.7	1,247	4.7	0	0.0
330	Hand	4,243	5.6	974	3.6	0	0.0
340	Finger	10,651	14.2	1,926	7.2	0	0.0
398	Upper Extrem., Mult.	1,296	1.7	457	1.7	0	0.0
4--	TRUNK	20,499	27.3	10,564	39.6	8	13.1
400	Trunk, Unspecified	10	0.0	8	0.0	0	0.0
410	Abdomen	797	1.1	504	1.9	0	0.0
420	Back	12,521	16.7	6,995	26.2	1	1.6
430	Chest	1,391	1.9	548	2.1	4	6.6
440	Hips	1,292	1.7	573	2.1	0	0.0
450	Shoulder(s)	3,109	4.1	1,272	4.8	1	1.6
498	Trunk, Multiple	1,379	1.8	664	2.5	2	3.3
5--	LOWER EXTREMITIES	11,238	15.0	4,696	17.6	0	0.0
51-	Leg(s)	5,726	7.6	2,285	8.6	0	0.0
510	Leg(s), Unspec.	739	1.0	303	1.1	0	0.0
511	Thigh	422	0.6	134	0.5	0	0.0
513	Knee	3,749	5.0	1,575	5.9	0	0.0
515	Lower Leg	681	0.9	217	0.8	0	0.0
518	Leg, Multiple	134	0.2	55	0.2	0	0.0
520	Ankle	2,139	2.8	1,090	4.1	0	0.0
530	Foot	2,339	3.1	956	3.6	0	0.0
540	Toe(s)	770	1.0	259	1.0	0	0.0
598	Lower Extrem., Mult.	259	0.3	104	0.4	0	0.0
700	MULTIPLE PARTS	4,900	6.5	2,114	7.9	11	18.0
8--	BODY SYSTEM	1,760	2.3	873	3.3	27	44.3
800	Body System, Unspec.	577	0.8	224	0.8	0	0.0
801	Circulatory System	133	0.2	101	0.4	22	36.1
810	Digestive System	16	0.0	10	0.0	0	0.0
820	Excretory System	12	0.0	5	0.0	0	0.0
830	Skeletal System	0	0.0	0	0.0	0	0.0
840	Nervous System	561	0.7	345	1.3	1	1.6
850	Respiratory System	460	0.6	187	0.7	4	6.6
880	Other Body Systems	1	0.0	1	0.0	0	0.0
999	NONCLASSIFIABLE	1,337	1.8	188	0.7	12	19.7

TABLE 25.

**SOURCE OF INJURIES AND ILLNESSES
NUMBER AND PERCENT, BY SEVERITY
MAINE, 1990**

CODES	SOURCE OF INJURY OR ILLNESS	ALL REPORTS		DISABLING REPORTS		FATAL REPORTS	
		Number	Percent	Number	Percent	Number	Percent
	TOTAL	75,155	100.0	26,693	100.0	61	100.0
01--	AIR PRESSURE	13	0.0	5	0.0	0	0.0
02--	ANIMALS, INSECTS, ETC.	396	0.5	62	0.2	0	0.0
03--	ANIMAL PRODUCTS	197	0.3	95	0.4	0	0.0
0330	Hides, Leather	155	0.2	85	0.3	0	0.0
0400	BODILY MOTION	3,229	4.3	1,480	5.5	0	0.0
05--	BOILERS, PRESSURE VESSELS	499	0.7	169	0.6	0	0.0
0530	Pressure Lines	333	0.4	109	0.4	0	0.0
06--	BOXES, BARRELS, CONTAINERS	7,495	10.0	3,369	12.6	0	0.0
0610	Pots, Pans, Dishes, Trays	644	0.9	250	0.9	0	0.0
0620	Pails, Buckets, Baskets	464	0.6	217	0.8	0	0.0
0630	Boxes, Crates, Cartons	3,163	4.2	1,445	5.4	0	0.0
0660	Bundles, Bales	244	0.3	127	0.5	0	0.0
0665	Reels, Rolls	797	1.1	334	1.3	0	0.0
0670	Tanks, Bins, Etc.	247	0.3	74	0.3	0	0.0
07--	BUILDINGS AND STRUCTURES	2,383	3.2	711	2.7	0	0.0
0705	Doors, Gates	968	1.3	246	0.9	0	0.0
0755	Walls, Fences	732	1.0	239	0.9	0	0.0
08--	CERAMIC TILES	44	0.1	21	0.1	0	0.0
09--	CHEMICALS, CHEMICAL COMPND S	1,898	2.5	498	1.9	0	0.0
10--	CLOTHING	346	0.5	142	0.5	0	0.0
11--	COAL AND PETROLEUM PRODUCTS	213	0.3	52	0.2	0	0.0
1200	COLD, ATMOS. AND ENVIRON.	32	0.0	10	0.0	0	0.0
13--	CONVEYORS	283	0.4	91	0.3	0	0.0
14--	DRUGS AND MEDICINES	153	0.2	7	0.0	0	0.0
15--	ELECTRIC APPARATUS	643	0.9	231	0.9	1	1.6
1700	FLAME, FIRE, SMOKE	296	0.4	84	0.3	0	0.0
18--	FOOD PRODUCTS	531	0.7	168	0.6	0	0.0
19--	FURNITURE, FIXTURES, ETC.	2,604	3.5	778	2.9	0	0.0
1901	Cabinets, File/Bookcases	628	0.8	168	0.6	0	0.0
1970	Tables	311	0.4	90	0.3	0	0.0
2000	GLASS ITEMS, OTHER	475	0.6	93	0.3	0	0.0
22--	HAND TOOLS, NOT POWERED	6,006	8.0	1,257	4.7	3	4.9
2230	Hammer	456	0.6	96	0.4	0	0.0
2245	Knife	2,177	2.9	372	1.4	1	1.6
2295	Wrenches	394	0.5	81	0.3	0	0.0
2299	Other, Inc. needles	1,660	2.2	294	1.1	0	0.0
23--	HAND TOOLS, POWERED	1,421	1.9	569	2.1	0	0.0
2355	Saws	318	0.4	164	0.6	0	0.0
2400	HEAT, ATMOS. AND ENVIRON.	68	0.1	15	0.1	0	0.0
2500	HEATING EQUIPMENT, OTHER	293	0.4	97	0.4	0	0.0
26--	HOISTING APPARATUS	367	0.5	134	0.5	0	0.0
2700	INFECTIOUS, PARASITIC AGENT	422	0.6	117	0.4	0	0.0
28--	LADDERS	339	0.5	138	0.5	0	0.0

TABLE 25. (Continued)

**SOURCE OF INJURIES AND ILLNESSES
NUMBER AND PERCENT, BY SEVERITY
MAINE, 1990**

		REPORTS OF INJURIES AND ILLNESSES					
CODES	SOURCE OF INJURY OR ILLNESS	ALL		DISABLING		FATAL	
		Number	Percent	Number	Percent	Number	Percent
29--	LIQUIDS, OTHER	237	0.3	86	0.3	0	0.0
3---	MACHINES	4,267	5.7	1,348	5.1	1	1.6
3001	Agitators, Mixers, Tumble	112	0.1	44	0.2	0	0.0
3100	Buffers, Sanders, Grinder	191	0.3	59	0.2	0	0.0
3250	Drilling, Boring	134	0.2	47	0.2	0	0.0
3300	Highway Construction	205	0.3	81	0.3	0	0.0
3400	Office Machines	826	1.1	259	1.0	0	0.0
3750	Saws	286	0.4	112	0.4	0	0.0
3850	Shears, Slitters, Slicers	472	0.6	118	0.4	0	0.0
3900	Stitching and Sewing Mach	170	0.2	60	0.2	0	0.0
41--	METAL ITEMS	7,538	10.0	1,976	7.4	1	1.6
4110	Automobile Parts	362	0.5	144	0.5	0	0.0
4115	Beams, Bars	1,383	1.8	430	1.6	0	0.0
4120	Bullets from Guns	8	0.0	4	0.0	1	1.6
4140	Pipes and Fittings	965	1.3	284	1.1	0	0.0
4150	Castings, Forgings, Etc.	1,390	1.8	422	1.6	0	0.0
4155	Nails, Screws, Staples	800	1.1	184	0.7	0	0.0
4165	Chips, Splinters, Part.	1,986	2.6	358	1.3	0	0.0
4300	MINERAL ITEMS, NONMETALLIC	1,013	1.3	284	1.1	1	1.6
4400	NOISE	100	0.1	3	0.0	0	0.0
4500	PAPER AND PULP	426	0.6	160	0.6	0	0.0
4600	UNIDENTIFIED PARTICLES	1,364	1.8	190	0.7	0	0.0
4700	PLANTS, TREES, VEGETATION	600	0.8	292	1.1	3	4.9
4800	PLASTIC ITEMS, OTHER	183	0.2	61	0.2	0	0.0
49--	PUMPS AND PRIME MOVERS	131	0.2	54	0.2	0	0.0
50--	RADIATING SUBSTANCES/EQUIP.	309	0.4	112	0.4	0	0.0
5070	Welding Equipment	292	0.4	103	0.4	0	0.0
5300	SCRAP, DEBRIS, WASTE	71	0.1	13	0.0	0	0.0
5400	STEAM	76	0.1	20	0.1	0	0.0
5500	TEXTILE ITEMS, OTHER	264	0.4	134	0.5	0	0.0
56--	VEHICLES	4,315	5.7	1,806	6.8	18	29.5
5620	Highway Vehicles, Powered	2,144	2.9	926	3.5	17	27.9
563-	Plant or Industrial Veh.	1,933	2.6	773	2.9	1	1.6
5631	Nonpowered Vehicles	1,438	1.9	573	2.1	0	0.0
5635	Powered Carriers	376	0.5	153	0.6	0	0.0
57--	WOOD ITEMS	2,642	3.5	837	3.1	0	0.0
5710	Logs	201	0.3	88	0.3	0	0.0
5720	Lumber	911	1.2	368	1.4	0	0.0
5730	Skids, Pallets	399	0.5	179	0.7	0	0.0
58--	WORKING SURFACES	8,786	11.7	3,708	13.9	2	3.3
5801	Floor	3,876	5.2	1,547	5.8	1	1.6
5810	Ground	3,218	4.3	1,462	5.5	1	1.6
5840	Stairs, Steps	1,074	1.4	453	1.7	0	0.0
60--	PERSON	4,441	5.9	1,921	7.2	24	39.3
6010	Person, Inj. (Heart, etc)	764	1.0	483		24	39.3
6020	Person, Other Than Injur.	3,677	4.9	1,438	5.4	0	0.0
6100	RECREATION AND ATHLETIC EQ.	233	0.3	74	0.3	0	0.0
62--	RUBBER PRODUCTS	247	0.3	117	0.4	0	0.0
6210	Tires	212	0.3	106	0.4	0	0.0
6500	ICE, SNOW	33	0.0	12	0.0	0	0.0
8800	SOURCE, NEC	3,342	4.4	1,478	5.5	0	0.0
9800	NONCLASSIFIABLE	3,891	5.2	1,614	6.0	7	11.5

TABLE 26.

**TYPE OF ACCIDENT OR EXPOSURE
NUMBER AND PERCENT, BY SEVERITY
MAINE, 1990**

		REPORTS OF INJURIES AND ILLNESSES					
		ALL		DISABLING		FATAL	
CODES	TYPE OF ACCIDENT OR EXPOSURE	Number	Percent	Number	Percent	Number	Percent
	TOTAL	75,155	100.0	26,693	100.0	61	100.0
01-	STRUCK AGAINST	9,349	12.4	1,986	7.4	0	0.0
011	Stationary Object	8,595	11.4	1,761	6.6	0	0.0
012	Moving Object	621	0.8	200	0.7	0	0.0
02-	STRUCK BY	12,592	16.8	3,031	11.4	8	13.1
021	Falling Object	2,918	3.9	933	3.5	2	3.3
022	Flying Object	523	0.7	120	0.4	1	1.6
03-	FALL FROM ELEVATION	3,460	4.6	1,595	6.0	2	3.3
031	From Staging	277	0.4	156	0.6	2	3.3
032	From Ladders	557	0.7	282	1.1	0	0.0
034	From Vehicles	457	0.6	260	1.0	0	0.0
035	On Stairs	909	1.2	423	1.6	0	0.0
05-	FALL ON SAME LEVELS	6,141	8.2	2,386	8.9	0	0.0
051	Fall to Working Surface	4,972	6.6	1,955	7.3	0	0.0
052	Fall Onto/Against Objects	1,155	1.5	425	1.6	0	0.0
06-	CAUGHT IN, UNDER OR BETWEEN	2,270	3.0	723	2.7	4	6.6
061	In-running or Meshing Obj.	12	0.0	5	0.0	0	0.0
062	Moving and Stationary Obj.	1,265	1.7	383	1.4	3	4.9
08-	RUBBED OR ABRADED	4,855	6.5	892	3.3	0	0.0
082	Objects Handled	254	0.3	39	0.1	0	0.0
084	Foreign Matter in Eyes	4,125	5.5	677	2.5	0	0.0
100	BODILY REACTION	3,229	4.3	1,479	5.5	0	0.0
12-	OVEREXERTION	23,686	31.5	11,425	42.8	0	0.0
121	Lifting Objects	7,829	10.4	4,134	15.5	0	0.0
122	Pulling/Pushing Objects	2,534	3.4	1,171	4.4	0	0.0
123	Welding, Throwing, Holding, Carrying Obj.	5,059	6.7	2,450	9.2	0	0.0
130	CONTACT W/ ELECTRIC CURRENT	126	0.2	45	0.2	1	1.6
15-	CONTACT WITH TEMP. EXTREMES	1,514	2.0	398	1.5	0	0.0
153	Hot Objects	1,404	1.9	369	1.4	0	0.0
18-	CONTACT WITH RADIATIONS, CAUSTICS, ETC.	3,967	5.3	1,010	3.8	1	1.6
181	By Inhalation	789	1.0	287	1.1	1	1.6
183	By Absorption	2,487	3.3	566	2.1	0	0.0
20-	TRANSPORTATION ACCIDENTS, OTHER THAN MOTOR VEHICLES	4	0.0	1	0.0	0	0.0
3--	MOTOR VEHICLE ACCIDENTS	858	1.1	452	1.7	12	19.7
31-	Both Vehicles in Motion	254	0.3	133	0.5	4	6.6
32-	Standing Vehicle or Stationary Objects	211	0.3	110	0.4	4	6.6
33-	Noncollision Accidents	243	0.3	130	0.5	4	6.6
40-	EXPOSURE TO NOISE	101	0.1	3	0.0	0	0.0
500	EXPLOSIONS	81	0.1	37	0.1	0	0.0
6--	NONHIGHWAY MOTOR VEHICLE ACCIDENT	191	0.3	82	0.3	0	0.0
899	ACCIDENT TYPE, NEC	1,493	2.0	598	2.2	26	42.6
999	NONCLASSIFIABLE	1,238	1.6	550	2.1	7	11.5

TABLE 27.

**ASSOCIATED OBJECT OR SUBSTANCE
NUMBER AND PERCENT, BY SEVERITY
MAINE, 1990**

		REPORTS OF INJURIES AND ILLNESSES					
CODES	ASSOCIATED OBJECT OR SUBSTANCE	ALL		DISABLING		FATAL	
		Number	Percent	Number	Percent	Number	Percent
	TOTAL	75,155	100.0	26,693	103.0	61	100.0
01--	AIR PRESSURE	14	0.0	6	0.0	0	0.0
02--	ANIMALS, INSECTS, ETC.	420	0.6	72	0.3	0	0.0
03--	ANIMAL PRODUCTS	187	0.2	90	0.3	0	0.0
0400	BODILY MOTION	1,942	2.6	888	3.3	0	0.0
05--	BOILERS, PRESSURE VESSELS	783	1.0	252	0.9	0	0.0
06--	BOXES, BARRELS, CONTAINERS	7,564	10.1	3,373	12.6	0	0.0
07--	BUILDINGS AND STRUCTURES	2,276	3.0	682	2.6	0	0.0
08--	CERAMIC TILES	36	0.0	15	0.1	0	0.0
09--	CHEMICALS, CHEMICAL COMPND	1,722	2.3	454	1.7	0	0.0
10--	CLOTHING	464	0.6	179	0.7	0	0.0
11--	COAL AND PETROLEUM PRODUCTS	167	0.2	42	0.2	0	0.0
1200	COLD, ATMOS. AND ENVIRON.	32	0.0	10	0.0	0	0.0
13--	CONVEYORS	313	0.4	98	0.4	0	0.0
14--	DRUGS AND MEDICINES	142	0.2	6	0.0	0	0.0
15--	ELECTRIC APPARATUS	744	1.0	261	1.0	1	1.6
16--	EXCAVATIONS, TRENCHES, ETC.	29	0.0	16	0.1	0	0.0
1700	FLAME, FIRE, SMOKE	169	0.2	48	0.2	0	0.0
18--	FOOD PRODUCTS	439	0.6	140	0.5	0	0.0
19--	FURNITURE, FIXTURES, ETC.	3,038	4.0	897	3.4	0	0.0
2000	GLASS ITEMS, OTHER	376	0.5	76	0.3	0	0.0
22--	HAND TOOLS, NOT POWERED	6,553	8.7	1,351	5.1	0	0.0
23--	HAND TOOLS, POWERED	3,027	4.0	935	3.5	1	1.6
2400	HEAT, ATMOS. AND ENVIRON.	67	0.1	14	0.1	0	0.0
2500	HEATING EQUIPMENT, OTHER	384	0.5	129	0.5	0	0.0
26--	HOISTING APPARATUS	462	0.6	170	0.6	1	1.6
2700	INFECTIOUS, PARASITIC AGENTS	423	0.6	118	0.4	0	0.0
28--	LADDERS	926	1.2	428	1.6	0	0.0
29--	LIQUIDS, OTHER	136	0.2	48	0.2	0	0.0
3---	MACHINES	4,993	6.6	1,532	5.7	1	1.6
41--	METAL ITEMS	5,186	6.9	1,507	5.6	0	0.0
4300	MINERAL ITEMS, NONMETALLIC	555	0.7	194	0.7	1	1.6
4400	NOISE	97	0.1	3	3.0	0	0.0
4500	PAPER AND PULP	431	0.6	159	0.6	0	0.0
4600	UNIDENTIFIED PARTICLES	54	0.1	7	0.0	0	0.0
4700	PLANTS, TREES, VEGETATION	610	0.8	297	1.1	3	4.9
4800	PLASTIC ITEMS, OTHER	181	0.2	66	0.2	0	0.0
49--	PUMPS AND PRIME MOVERS	133	0.2	58	0.2	0	0.0
50--	RADIATING SUBSTANCES/EQUIP.	31	0.0	11	0.0	0	0.0
5300	SCRAP, DEBRIS, WASTE	39	0.1	8	0.0	0	0.0
5400	STEAM	45	0.1	10	0.0	0	0.0
5500	TEXTILE ITEMS, OTHER	272	0.4	133	0.5	0	0.0
56--	VEHICLES	5,082	6.8	2,140	8.0	18	29.5
57--	WOOD ITEMS	2,282	3.0	799	3.0	0	0.0
60--	PERSON	4,910	6.5	2,066	7.7	27	44.3
6100	RECREATION AND ATHLETIC EQ.	295	0.4	95	0.4	0	0.0
62--	RUBBER PRODUCTS	244	0.3	116	0.4	0	0.0
63--	PILES, STACKS	158	0.2	62	0.2	0	0.0
64--	WORKING SURFACES	7,934	10.6	3,266	12.2	1	1.6
6500	ICE, SNOW	23	0.0	9	0.0	0	0.0
8800	SOURCE, NEC	3,429	4.6	1,483	5.6	0	0.0
9800	NONCLASSIFIABLE	5,336	7.1	1,874	7.0	7	11.5

**TABLE 28. INDUSTRY OF INJURED OR LLL WORKERS
NUMBER, BY SEX
MAINE, 1990**

INDUSTRY		NUMBER OF CASES		
		TOTAL	MALE	FEMALE
TOTAL, ALL INDUSTRIES		75,155	45,039	22,070
SIC TOTAL, PRIVATE SECTOR		8,046	4,939	3,107
AGRICULTURE, FORESTRY, FISHING		889	719	170
01	AGRICULTURAL PRODUCTION, CROP	233	175	58
02	AGRICULTURAL PRODUCTION, LIVESTOCK	146	117	29
07	AGRICULTURAL SERVICES	456	363	93
08	FORESTRY	42	39	3
09	FISHING, HUNTING, TRAPPING	12	10	2
MINING AND UNKNOWN		207	171	36
CONSTRUCTION		7,417	7,244	173
15	GENERAL BUILDING CONTRACTORS	2,505	2,442	63
152	Residential Building Construction	1,010	988	22
154	Nonresidential Building Construction	1,478	1,439	39
16	HEAVY CONSTRUCTION CONTRACTORS	1,353	1,310	43
161	Highway and Street Construction	478	464	14
162	Heavy Construction, Except Highway	875	846	29
17	SPECIAL TRADE CONTRACTORS	3,559	3,492	67
171	Plumbing, Heating, Air Conditioning	924	914	10
173	Electrical Work	452	441	11
174	Masonry, Stonework, and Plastering	541	529	12
176	Roofing and Sheet Metal Work	211	210	1
179	Miscellaneous Special Trade Contractors	958	939	19
MANUFACTURING		25,725	19,795	5,930
20	FOOD AND KINDRED PRODUCTS	2,064	1,469	595
201	Meat Products	163	121	42
2015	Poultry Slaughtering and Processing	55	35	20
203	Preserved Fruits and Vegetables	649	461	188
2037	Frozen Fruits and Vegetables	548	384	164
205	Bakery Products	359	279	80
2051	Bread, Cake, and Related Products	358	278	80
209	Miscellaneous Foods and Kindred Products	555	300	255
2091	Canned and Cured Seafoods	354	153	201
2092	Fresh or Frozen Packaged Fish	164	115	49
22	TEXTILE MILL PRODUCTS	1,253	835	418
222	Weaving Mills, Synthetics	140	96	44
223	Weaving and Finishing Mills, Wool	521	365	156
23	APPAREL AND OTHER TEXTILE PRODUCTS	358	114	244
24	LUMBER AND WOOD PRODUCTS	2,903	2,368	535
241	Logging Camps and Logging Contractors	692	678	14
242	Sawmills and Planing Mills	806	744	62
2421	Sawmills, and Planing Mills, General	598	570	28
2426	Hardwood Dimensions and Flooring	208	174	34
243	Millwork, Plywood, and Structural Members	268	195	73
245	Wood Buildings and Mobile Homes	104	91	13
249	Miscellaneous Wood Products	973	610	363
25	FURNITURE AND FIXTURES	326	255	71
251	Household Furniture	200	140	60
26	PAPER AND ALLIED PRODUCTS	4,552	3,981	571
261	Pulp Mills	319	276	43
262	Paper Mills, Except Building Paper	3,793	3,369	424
267	Miscellaneous Converted Paper Products	297	213	84
27	PRINTING AND PUBLISHING	609	400	209
28	CHEMICAL AND ALLIED PRODUCTS	180	112	68
29	PETROLEUM AND COAL PRODUCTS	74	73	1
30	RUBBER AND MISCELLANEOUS PLASTICS PRODUCTS	892	594	298
302	Rubber and Plastics Footwear	217	130	87
308	Miscellaneous Plastics Products	523	324	199
31	LEATHER AND LEATHER PRODUCTS	2,617	1,294	1,323
311	Leather Tanning and Finishing	584	511	73
313	Boot and Shoe Cut Stock and Findings	14	7	7
314	Footwear, Except Rubber	2,010	773	1,237
3143	Men's Footwear, Except Athletic	813	326	487
3144	Women's Footwear, Except Athletic	509	181	328
3149	Footwear, Except Rubber, Other	422	151	271

TABLE 28. (Continued)

**INDUSTRY OF INJURED OR ILL WORKERS
NUMBER, BY SEX
MAINE, 1990**

SIC	INDUSTRY	NUMBER OF CASES		
		TOTAL	MALE	FEMALE
32	STONE, CLAY AND GLASS PRODUCTS	369	352	17
327	Concrete, Gypsum, and Plaster Products	289	287	2
33	PRIMARY METAL INDUSTRIES	161	129	32
34	FABRICATED METAL PRODUCTS	878	741	137
344	Fabricated Structural Metal Products	384	365	19
348	Ordnance and Access. exc. Veh., Missiles	216	147	69
35	INDUSTRIAL AND COMMERCIAL MACHINERY AND COMPUTER EQUIPMENT	865	756	109
353	Construction and Material Handling Mach.	59	53	6
354	Metalworking Machinery	138	115	23
36	ELECTRIC AND ELECTRONIC EQUIPMENT	906	393	513
366	Communication Equipment	135	101	34
367	Electronic Components and Accessories	318	96	222
37	TRANSPORTATION EQUIPMENT	6,555	5,834	721
372	Aircraft and Parts	393	328	65
373	Ship and Boat Building and Repairing	5,901	5,361	540
3731	Ship Building and Repairing	5,595	5,079	516
3732	Boat Building and Repairing	306	282	24
38	INSTRUMENTS AND RELATED PRODUCTS	102	65	37
39	MISCELLANEOUS MANUFACTURING INDUSTRIES	61	30	31
	TRANSPORTATION AND PUBLIC UTILITIES	2,894	2,566	328
41	LOCAL PASSENGER TRANSIT	143	92	51
42	TRUCKING AND WAREHOUSING	1,480	1,386	94
421	Trucking, Local and Long Distance	1,419	1,333	86
44	WATER TRANSPORTATION	120	113	7
45	TRANSPORTATION BY AIR	100	81	19
48	COMMUNICATION	356	289	67
49	ELECTRIC, GAS, AND SANITARY SERVICES	662	588	74
491	Electric Services	484	417	67
	WHOLESALE TRADE	4,105	3,537	568
50	WHOLESALE TRADE, DURABLE GOODS	2,168	1,908	260
508	Machinery, Equipment, and Supplies	406	388	18
51	WHOLESALE TRADE, NONDURABLE GOODS	1,937	1,629	308
514	Groceries and Related Products	986	902	84
	RETAIL TRADE	11,122	6,232	4,890
52	BUILDING MATERIALS, HARDWARE, MOBILE HOMES	771	702	69
521	Lumber and Other Building Materials	535	504	31
53	GENERAL MERCHANDISE STORES	1,199	501	698
531	Department Stores	896	374	522
54	FOOD STORES	2,627	1,234	1,393
541	Grocery Stores	2,472	1,171	1,301
55	AUTOMOTIVE DEALERS AND SERVICE STATIONS	1,448	1,286	162
551	New and Used Car Dealers	761	722	39
553	Auto and Home Supply Stores	209	196	13
56	APPAREL STORES	273	83	190
57	FURNITURE AND HOME FURNISHINGS STORES	235	201	34
58	EATING AND DRINKING PLACES	2,866	1,312	1,554
59	MISCELLANEOUS RETAIL	1,703	913	790
594	Miscellaneous Shopping Goods Stores	852	313	539
	FINANCE, INSURANCE, AND REAL ESTATE	1,257	352	905
60	DEPOSITORY INSTITUTIONS	395	64	331
63	INSURANCE CARRIERS	468	85	383
65	REAL ESTATE	215	153	62
	SERVICES	13,493	4,423	9,070
70	HOTELS AND OTHER LODGING	998	463	535
701	Hotels, Motels, and Tourist Courts	760	311	449
72	PERSONAL SERVICES	211	93	118
73	BUSINESS SERVICES	893	567	326
75	AUTO REPAIR, SERVICES, AND GARAGES	560	529	31
753	Automotive Repair Shops	439	421	18
76	MISCELLANEOUS REPAIR SERVICES	232	224	8
79	AMUSEMENT AND RECREATION SERVICES	488	359	129
80	HEALTH SERVICES	7,030	900	6,130
805	Nursing and Personal Care Facilities	2,869	238	2,631
806	Hospitals	3,670	608	3,062
82	EDUCATIONAL SERVICES	797	384	413
822	Colleges and Universities	429	234	195
83	SOCIAL SERVICES	1,316	388	928

TABLE 28. (Continued)
INDUSTRY OF INJURED OR ILL WORKERS
NUMBER, BY SEX
MAINE, 1990

	NUMBER OF CASES		
	TOTAL	MALE	FEMALE
TOTAL, PRIVATE SECTOR	8,046	4,939	3,107
STATE GOVERNMENT	2,551	1,394	1,157
Highway and Street Construction	379	335	44
Hospitals	510	176	334
Colleges and Universities	513	292	221
Social Services	278	91	187
Public Administration	749	416	333
Police Protection	66	61	5
Correctional Institutions	114	85	29
LOCAL GOVERNMENT	5,495	3,545	1,950
Highway and Street Construction	749	716	33
Sanitary Services	397	377	20
Amusement and Recreation Services	120	89	31
Educational Services	2,106	789	1,317
Public Administration	1,713	1,392	321
Police Protection	751	639	112
Fire Protection	529	477	52

TABLE 29.

**OCCUPATION OF INJURED OR ILL WORKER
NUMBER, BY AGE
MAINE, 1990**

OCCUPATION	AGE OF WORKERS IN YEARS									
	TOTAL ALL AGE	15 YEARS OR LESS	16-19 YEARS	20-24 YEARS	25-34 YEARS	35-44 YEARS	45-54 YEARS	55-64 YEARS	65 YEARS OR MORE	AGE UNKNOWN
TOTAL, ALL OCCUPATIONS	75,155	150	4,203	11,717	25,687	17,594	9,679	4,900	541	684
EXECUTIVE, ADMINISTRATIVE, MANAGERIAL	2,036	0	28	144	592	667	380	183	23	19
Managers and Administrators, NEC	972	0	25	90	329	284	152	74	10	8
Management Related Occupations (e.g., Accountants, Buyers, Personnel Officers)	726	0	2	45	189	263	146	64	10	7
PROFESSIONAL SPECIALTY	3,584	3	36	282	1,203	1,235	532	240	25	28
Registered Nurses	1,349	1	1	87	453	504	185	102	8	8
Elementary Teachers	419	0	1	9	110	150	111	34	1	3
Secondary Teachers	131	0	0	8	25	50	33	12	0	3
Social Workers	188	0	1	12	61	65	30	17	1	1
TECHNICIANS AND SUPPORT	1,621	0	20	173	572	552	203	84	9	8
Licensed Practical Nurses	521	0	1	26	147	227	78	33	5	4
Health Technologists and Tech., NEC	313	0	2	51	119	95	29	16	0	1
SALES	2,591	15	276	418	744	597	309	164	31	37
Supervisors, Sales Occupations	681	0	11	80	247	188	109	39	2	5
Sales Workers	1,760	15	263	327	456	361	171	110	29	28
ADMINISTRATIVE SUPPORT	4,199	3	119	581	1,260	1,226	640	297	38	35
Secretaries	536	0	4	62	160	169	93	37	4	7
Bookkeepers, Account Clerks	255	0	5	27	72	85	48	17	1	0
Shipping and Receiving Clerks	481	0	35	102	155	112	56	15	4	2
Stock and Inventory Clerks	244	0	9	47	70	72	21	21	1	3
HOUSEHOLD OCCUPATIONS	11	0	0	0	3	0	3	4	0	1
Launderers, Cooks, Child Care Workers	11	0	0	0	3	0	3	4	0	1
PROTECTIVE SERVICES	1,775	4	48	280	665	469	209	73	17	10
Firefighters	460	3	23	53	173	142	54	9	0	3
Police and Detectives	565	0	3	95	257	158	45	6	0	1
Guards and Police, exc. Public Service	307	0	8	55	93	54	45	41	9	2
SERVICES	11,825	78	1,191	1,926	3,295	2,385	1,657	1,003	132	158
Waiters and Waitresses	534	1	80	130	160	85	44	20	1	13
Cooks	1,174	5	150	233	335	204	138	80	8	21
Kitchen Workers, Food Preparation	1,774	25	402	349	387	265	179	117	14	36
Health Aides, except Nursing	456	1	54	65	131	89	62	43	5	6
Nursing Aides	3,538	1	156	597	1,183	841	490	224	15	31
Maids and Housemen	865	1	62	90	194	209	174	104	19	12
Janitors and Cleaners	1,842	14	66	163	422	424	397	293	51	12

TABLE 29. (Continued)

**OCCUPATION OF INJURED OR ILL WORKERS
NUMBER, BY AGE
MAINE, 1990**

OCCUPATION	AGE OF WORKERS IN YEARS									
	TOTAL ALL AGE	15 YEARS OR MORE	16-19 YEARS	20-24 YEARS	25-34 YEARS	35-44 YEARS	45-54 YEARS	55-64 YEARS	65 YEARS OR MORE	AGE UNKNOWN
FARMING, FISHING, FORESTRY	1,679	10	120	261	586	340	189	119	19	35
Farm Workers	246	4	19	41	80	41	30	15	6	10
Groundskeepers, Gardeners, exc. Farm	522	3	71	101	172	84	40	34	9	8
Logging Occupations	524	0	21	65	178	124	74	46	2	14
PRECISION CRAFT AND REPAIR	17,128	0	342	2,334	6,703	4,196	2,259	1,099	72	123
Supervisors, Mechanics and Repairers	286	0	1	4	81	97	71	27	3	2
Auto Mechanics	985	0	41	205	411	188	104	32	1	3
Bus and Truck Mechanics	535	0	4	67	203	145	84	25	0	7
Industrial Machinery Maintenance Occup	1,019	0	4	47	296	325	219	124	3	1
Machinery Maintenance Occup.	475	0	6	32	133	151	92	56	4	1
Heating, Air Conditioning, Refrigeration Mechanics	474	0	1	57	222	97	64	31	2	0
Millwrights	568	0	2	22	166	207	104	62	2	3
Supervisors, Construction Occupations	607	0	2	22	225	207	92	50	4	5
Carpenters	2,053	0	39	291	991	403	180	95	9	45
Electricians	1,291	0	33	201	496	334	133	84	6	4
Plumbers, Pipefitters, Steamfitters	1,506	0	15	216	568	398	199	96	7	7
Roofers	104	0	2	19	45	28	5	5	0	0
Structural Metal Workers	298	0	7	46	127	79	25	11	1	2
Supervisors, Production Occupations	567	0	1	30	202	150	114	66	2	2
Boilermakers	76	0	2	5	27	22	14	4	0	2
Lay-out Workers	574	0	21	123	278	95	45	11	0	1
Water and Sewage Treatment Plant Op.	160	0	2	16	55	53	24	10	0	0
MACHINE OPERATORS, ASSEMBLERS, INSPECT.	13,290	1	569	2,230	4,858	3,045	1,688	793	56	50
Metal and Plastic Lathe Operators	72	0	0	10	29	20	5	6	1	1
Grinding and Buffing Machine Operators	173	0	3	31	76	32	21	10	0	0
Wood Lathe, Routing and Planing Op.	123	0	6	23	50	18	17	7	2	0
Sawing Machine Operators	301	0	22	57	126	49	21	18	3	5
Printing Machine Operators	163	0	5	27	83	30	7	10	0	1
Winding and Twisting Machine Operators	253	0	5	25	92	67	42	20	2	0
Textile Sewing Machine Operators	224	0	14	28	72	52	41	16	0	1
Shoe Machine Operators	1,534	0	106	268	435	338	263	112	10	2
Miscellaneous Textile Machine Op.	287	0	19	51	97	64	28	23	4	1
Paint Spraying Machine Op.	437	0	13	114	182	86	27	14	0	1
Furnace, Kiln, Oven Operators	170	0	0	17	51	56	27	16	1	2
Slicing and Cutting Machine Operators	135	0	8	30	54	26	13	2	2	0
Welders and Cutters	1,402	0	35	304	569	311	128	44	2	9
Assemblers	640	0	24	135	240	132	64	36	4	5
Miscellaneous Hand Working Occupations	233	0	10	31	85	50	42	13	0	2
Production Inspectors	399	0	18	38	112	112	63	53	2	1
TRANSPORTATION AND MATERIAL MOVING OC.	4,576	0	84	500	1,595	1,175	770	389	31	32
Truck Drivers	2,807	0	49	311	963	738	487	232	12	15
Bus Drivers	217	0	1	1	46	60	70	28	8	3
Crane Operators	81	0	1	10	31	18	14	6	1	0
Excavating and Loading Machine Op.	152	0	1	15	47	40	31	15	2	1
Industrial Truck and Tractor Op. (Forklifts, Skidders)	304	0	10	29	132	63	36	31	0	3

TABLE 29. (Continued)

OCCUPATION OF INJURED OR ILL WORKERS
 NUMBER, BY AGE
 MAINE, 1990

OCCUPATION	AGE OF WORKERS IN YEARS									
	TOTAL ALL AGE	15 YEARS OR MORE	16-19 YEARS	20-24 YEARS	25-34 YEARS	35-44 YEARS	45-54 YEARS	55-64 YEARS	65 YEARS OR MORE	AGE UNKNOWN
HANDLERS, CLEANERS, HELPERS	10,521	33	1,354	2,530	3,520	1,639	804	428	78	135
Helpers, Construction Trades	348	0	31	122	137	33	9	1	2	13
Construction Laborers	1,590	2	199	450	561	211	93	47	3	24
Stock Handlers and Baggers	1,353	6	332	298	332	183	95	66	23	18
Machine Feeders and Offbearers	183	0	26	56	56	24	12	8	0	1
Hand Packers	536	1	46	67	161	109	89	50	8	5
Laborers, except Construction	4,639	19	511	1,143	1,611	735	358	176	35	51
STATE MILITARY OCCUPATIONS	3	0	0	0	2	0	1	0	0	0
OCCUPATION NOT REPORTED	316	3	16	58	89	68	35	24	10	13

TABLE 30.

**OCCUPATION OF INJURED OR ILL WORKER
NUMBER, BY INDUSTRY DIVISION
MAINE, 1990**

OCCUPATION	TOTAL FOR ALL IND	MANUFAC- TURING	SERVICE	RETAIL	CONSTR	WHOLE- SALE	TRANS AND P/UTIL	FINANCE INSURANCE R/ESTATE	AGRIC FISH FOREST	MINING AND OTHER	PUBLIC SECTOR
TOTAL, ALL OCCUPATIONS	75,155	25,725	13,493	11,122	7,417	4,105	2,894	1,257	889	207	8,046
EXECUTIVE, ADMINISTRATIVE, MANAGERIAL	2,036	340	443	458	73	85	73	180	8	12	364
Managers and Administrators, NEC	972	99	214	377	53	45	45	37	6	5	91
Management Related Occupations (e.g., Accountants, Buyers, Personnel Officers)	726 0 0	230	139	75	18	36	27	85	1	6	109
PROFESSIONAL SPECIALTY	3,584	130	2,164	50	16	16	54	20	22	1	1,111
Registered Nurses	1,345	9	1,246	0	0	0	0	4	0	1	85
Elementary Teachers	419	0	18	0	0	0	0	0	0	0	401
Secondary Teachers	131	0	20	0	0	0	0	0	0	0	111
Social Workers	188	0	105	0	0	0	0	0	0	0	83
TECHNICIANS AND SUPPORT	1,621	130	1,097	18	11	20	78	24	5	8	230
Licensed Practical Nurses	521	0	452	0	0	0	3	1	0	1	64
Health Technologists and Tech., NEC	313	2	190	2	0	1	38	1	0	0	79
SALES	2,591	127	113	1,900	11	282	26	58	6	5	63
Supervisors, Sales Occupations	681	34	36	518	2	69	8	4	0	0	10
Sales Workers	1,760	75	73	1,355	8	168	15	4	5	4	53
ADMINISTRATIVE SUPPORT	4,199	681	934	529	50	268	243	721	8	12	753
Secretaries	536	32	295	18	12	13	11	38	0	1	116
Bookkeepers, Account Clerks	255	30	64	47	9	20	11	35	0	2	37
Shipping and Receiving Clerks	481	201	32	110	6	83	34	5	2	1	7
Stock and Inventory Clerks	244	86	32	62	6	38	3	2	0	1	14
HOUSEHOLD OCCUPATIONS	11	0	9	0	0	0	0	1	0	1	0
Launderers, Cooks, Child Care Workers	11	0	9	0	0	0	0	1	0	1	0
PROTECTIVE SERVICES	1,775	82	207	22	4	6	1	5	0	7	1,441
Firefighters	460	1	0	0	0	0	0	0	0	0	459
Police and Detectives	565	0	1	0	1	2	0	0	0	5	556
Guards and Police, exc. Public Service	307	80	166	21	3	4	1	5	0	0	27
SERVICES	11,825	219	6,214	3,242	14	52	34	109	6	20	1,915
Waiters and Waitresses	534	0	92	439	0	0	0	0	0	0	3
Cooks	1,174	7	364	646	0	5	0	4	0	3	145
Kitchen Workers, Food Preparation	1,774	5	198	1,358	1	9	0	0	2	1	200
Health Aides, except Nursing	456	0	404	3	0	0	4	0	0	0	45
Nursing Aides	3,538	0	2,970	3	0	1	0	15	0	1	548
Maids and Housemen	865	1	794	20	1	0	0	2	0	1	46
Janitors and Cleaners	1,842	193	574	177	9	28	12	72	3	11	763
FARMING, FISHING, FORESTRY	1,679	526	268	41	11	34	30	27	563	16	163
Farm Workers	246	40	9	2	0	7	2	1	165	10	10
Groundskeepers, Gardeners, exc. Farm	522	11	146	19	5	0	3	25	206	2	105
Logging Occupations	524	452	2	3	5	14	22	0	17	2	7

TABLE 30. (Continued)

**OCCUPATION OF INJURED OR ILL WORKERS
NUMBER, BY INDUSTRY DIVISION
MAINE, 1990**

OCCUPATION	TOTAL FOR ALL IND	MANUFAC- TURING	SERVICE	RETAIL	CONSTR	WHOLE- SALE	TRANS AND P/UTIL	FINANCE INSURANCE R/ESTATE	AGRIC FISH FOREST	MINING AND OTHER	PUBLIC SECTOR
PRECISION CRAFT AND REPAIR	17,128	7,085	919	1,671	4,674	887	791	51	36	48	966
Supervisors, Mechanics and Repairers	286	91	46	62	20	25	13	3	2	0	24
Auto Mechanics	985	18	226	599	5	61	17	1	2	3	53
Bus and Truck Mechanics	535	60	40	64	24	97	146	0	8	0	96
Industrial Machinery Maintenance Occup	1,019	824	20	7	7	110	39	1	0	2	9
Machinery Maintenance Occup.	475	351	28	15	6	27	19	0	1	1	27
Heating, Air Conditioning, Refrigeration Mechanics	474	8	47	246	77	79	12	2	0	0	3
Millwrights	568	393	17	5	140	2	7	0	1	0	3
Supervisors, Construction Occupations	607	15	20	5	463	5	7	4	3	1	84
Carpenters	2,053	422	75	40	1,389	30	19	20	1	22	35
Electricians	1,291	786	31	9	417	4	19	4	0	0	21
Plumbers, Pipefitters, Steamfitters	1,506	685	33	18	739	16	1	0	0	0	14
Roofers	104	4	1	0	98	1	0	0	0	0	0
Structural Metal Workers	298	22	5	1	206	14	0	1	0	0	49
Supervisors, Production Occupations	567	476	16	22	9	30	5	2	0	1	6
Boilermakers	76	5	7	1	55	8	0	0	0	0	0
Lay-out Workers	574	574	0	0	0	0	0	0	0	0	0
Water and Sewage Treatment Plant Op.	160	15	5	0	0	0	15	0	0	0	125
MACHINE OPERATORS, ASSEMBLERS, INSPECT.	13,290	11,776	435	252	225	432	71	19	15	9	56
Metal and Plastic Lathe Operators	72	69	1	0	0	2	0	0	0	0	0
Grinding and Buffing Machine Operators	173	169	1	1	0	0	0	1	1	0	0
Wood Lathe, Routing and Planing Op.	123	108	4	9	2	0	0	0	0	0	0
Sawing Machine Operators	301	273	5	20	0	3	0	0	0	0	0
Printing Machine Operators	163	129	11	4	1	7	0	8	0	0	3
Winding and Twisting Machine Operators	253	253	0	0	0	0	0	0	0	0	0
Textile Sewing Machine Operators	224	203	4	9	0	0	0	0	0	1	7
Shoe Machine Operators	1,534	1,501	1	32	0	0	0	0	0	0	0
Miscellaneous Textile Machine Op.	287	281	3	3	0	0	0	0	0	0	0
Paint Spraying Machine Op.	437	401	9	1	11	7	5	0	2	0	1
Furnace, Kiln, Oven Operators	170	131	13	4	3	5	5	1	0	0	8
Slicing and Cutting Machine Operators	135	111	9	4	1	8	2	0	0	0	0
Welders and Cutters	1,402	1,123	36	2	174	33	24	0	0	2	8
Assemblers	640	551	30	14	6	36	0	1	1	0	1
Miscellaneous Hand Working Occupations	233	204	4	15	0	8	0	0	2	0	0
Production Inspectors	399	324	4	43	2	20	0	0	0	0	6
TRANSPORTATION AND MATERIAL MOVING OC.	4,576	972	173	523	421	789	1,099	13	59	40	487
Truck Drivers	2,807	333	119	410	175	593	959	5	38	22	153
Bus Drivers	217	3	17	0	0	1	31	5	0	1	159
Crane Operators	81	31	0	0	23	7	13	0	4	1	2
Excavating and Loading Machine Op.	152	18	0	2	72	2	15	0	4	3	36
Industrial Truck and Tractor Op. (Forklifts, Skidders)	304	207	1	19	7	47	11	0	4	6	2

TABLE 30. (Continued)

**OCCUPATION OF INJURED OR ILL WORKERS
NUMBER, BY INDUSTRY DIVISION
MAINE, 1990**

OCCUPATION	TOTAL FOR ALL IND	MANUFAC- TURING	SERVICE	RETAIL	CONST.	WHOLE- SALE	TRANS AND P/UTIL	FINANCE INSURANCE R/ESTATE	AGRIC FISH FOREST	MINING AND OTHER	PUBLIC SECTOR
HANDLERS, CLEANERS, HELPERS	10,521	3,560	455	2,366	1,856	1,217	384	23	156	21	483
Helpers, Construction Trades	348	23	6	5	297	5	5	1	1	2	3
Construction Laborers	1,590	79	40	12	1,354	3	13	5	4	8	72
Stock Handlers and Baggers	1,353	46	8	1,229	2	63	3	0	1	1	0
Machine Feeders and Offbearers	183	157	12	11	0	1	1	0	1	0	0
Hand Packers	536	391	12	73	0	27	3	1	29	0	0
Laborers, except Construction	4,639	2,122	262	635	148	903	146	16	106	9	292
STATE MILITARY OCCUPATIONS	3	0	0	0	0	0	0	0	0	0	3
OCCUPATION NOT REPORTED	316	97	62	50	51	17	10	6	5	7	11

TABLE 31.

**OCCUPATION OF INJURED OR ILL WORKERS
NUMBER, BY SELECTED MANUFACTURING INDUSTRIES
MAINE, 1990**

OCCUPATION	TOTAL	LUMBER WOOD	PAPER	LEATHER	TRANS EQPT.	FOOD	TEXTILES	FABRIC. METAL	ELECTRIC ELEC'NC EQPT.	RUBBER AND PLASTIC	MACH. EXCEPT ELECT	OTHER MFG.
TOTAL, ALL OCCUPATIONS	25,725	2,903	4,552	2,617	6,555	2,064	1,253	878	906	892	865	2,240
EXECUTIVE, ADMINISTRATIVE, MANAGERIAL	340	26	35	12	150	24	9	6	11	9	15	43
Managers and Administrators, NEC	99	14	7	5	19	9	5	4	7	4	4	21
Management Related Occupations (e.g., Accountants, Buyers, Personnel Officers)	230	12	27	6	131	11	3	2	4	5	11	18
SALES	127	9	0	10	4	38	1	0	3	0	1	61
Supervisors, Sales Occupations	34	1	0	6	1	11	0	0	1	0	0	14
Sales Workers	75	7	0	4	3	21	0	0	0	0	1	39
ADMINISTRATIVE SUPPORT	681	39	112	84	71	90	29	30	37	26	24	139
Secretaries	32	5	8	3	3	0	1	3	3	1	3	2
Bookkeepers, Account Clerks	30	3	5	2	0	4	3	1	2	1	1	8
Shipping and Receiving Clerks	201	7	27	25	4	54	11	16	8	9	5	35
Stock and Inventory Clerks	86	3	29	1	14	8	2	3	10	2	11	3
PRECISION CRAFT AND REPAIR	7,085	351	1,329	125	3,682	305	141	201	305	82	264	300
Supervisors, Mechanics and Repairers	91	7	52	2	5	6	5	1	3	3	3	4
Auto Mechanics	18	4	3	0	1	4	0	1	0	0	2	3
Bus and Truck Mechanics	60	12	10	0	13	10	1	0	0	0	0	14
Industrial Machinery Maintenance Occup	824	61	315	11	269	35	31	11	28	16	14	33
Machinery Maintenance Occup.	352	41	140	20	22	28	24	7	21	12	12	25
Heating, Air Conditioning, Refrigeration Mechanics	8	1	0	0	1	2	0	2	0	0	1	1
Millwrights	393	34	323	7	0	10	14	2	1	0	0	2
Carpenters	422	22	8	3	360	2	3	4	1	2	5	12
Electricians	786	12	105	2	636	7	8	3	2	2	3	6
Plumbers, Pipefitters, Steamfitters	685	2	137	9	523	0	3	9	1	1	0	0
Structural Metal Workers	22	0	0	0	4	0	0	18	0	0	0	0
Supervisors, Production Occupations	476	66	79	44	20	55	40	19	21	37	24	71
Lay-out Workers	574	0	0	0	574	0	0	0	0	0	0	0
MACHINE OPERATORS, ASSEMBLERS, INSPECT.	11,776	1,225	2,291	1,969	1,936	496	856	506	448	591	486	972
Metal and Plastic Lathe Operators	69	8	0	0	23	0	0	9	10	1	16	2
Grinding and Buffing Machine Operators	169	3	5	2	61	0	1	20	7	8	37	25
Wood Lathe, Routing and Planing Op.	108	98	2	0	6	0	0	0	0	0	2	0
Sawing Machine Operators	273	252	9	0	1	1	0	0	0	3	0	7
Printing Machine Operators	129	2	1	1	0	0	1	0	0	1	1	122
Winding and Twisting Machine Operators	253	1	50	0	1	0	195	0	5	0	0	1
Textile Sewing Machine Operators	204	1	0	48	2	0	11	0	0	5	6	131
Shoe Machine Operators	1,501	1	0	1,341	0	0	0	0	0	154	0	5
Miscellaneous Textile Machine Op.	281	0	1	31	1	1	212	0	0	0	0	35
Paint Spraying Machine Op.	401	8	26	7	317	0	1	1	6	16	5	14
Furnace, Kiln, Oven Operators	131	32	49	11	10	8	6	0	0	1	3	11
Slicing and Cutting Machine Operators	111	25	16	17	0	18	7	4	1	10	2	11
Welders and Cutters	1,123	1	34	1	712	13	3	167	23	9	119	41
Assemblers	551	43	2	1	163	4	5	47	111	26	69	80
Miscellaneous Hand Working Occupations	204	1	0	180	0	2	3	1	1	2	0	14
Production Inspectors	324	13	37	69	55	22	16	11	36	22	8	35

TABLE 31. (Continued)

**OCCUPATION OF INJURED OR ILL WORKERS
NUMBER, BY SELECTED MANUFACTURING INDUSTRIES
MAINE, 1990**

OCCUPATION	TOTAL	LUMBER WOOD	PAPER	LEATHER	TRANS EQPT.	FOOD	TEXTILES	FABRIC. METAL	ELECTRIC ELEC'NC EQPT.	RUBBER AND PLASTIC	MACH. EXCEPT ELECT	OTHER MFG.
TRANSPORTATION AND MATERIAL MOVING OC.	972	245	199	19	56	225	34	12	9	18	5	150
Truck Drivers	333	62	46	7	13	54	18	10	8	4	2	109
Industrial Truck and Tractor Op. (Forklifts, Skidders)	207	107	46	8	8	17	5	1	0	7	1	7
HANDLERS, CLEANERS, HELPERS	3,560	498	452	352	489	785	163	108	57	146	50	460
Machine Feeders and Offbearers	157	72	31	12	2	8	19	1	1	0	0	11
Hand Packers	391	35	15	60	1	215	8	1	8	17	5	26
Laborers, except Construction	2,122	280	237	230	428	398	50	63	25	60	36	315
MANUFACTURING OCCUPATIONS, NEC	1,087	496	121	39	145	91	20	13	32	14	16	100
OCCUPATION NOT REPORTED	97	14	13	7	22	10	0	2	4	6	4	15

**TABLE 32. DURATION OF EMPLOYMENT OF INJURED OR ILL WORKERS
NUMBER AND CUMULATIVE PERCENT, BY SEVERITY
MAINE, 1990**

REPORTS OF INJURIES AND ILLNESSES							
	ALL		DISABLING		FATAL		
	Number	Cumulative	Number	Cumulative	Number	Cumulative	
		Percent		Percent		Percent	
Total Reports	75,155	100.0	26,693	100.0	61	100.0	
Missing Length of Service	2,531	3.4	817	3.1	6	9.8	
Total with Length of Service	72,624	96.6	25,876	96.9	55	90.2	
Length of Service							
Up to 1st Month	4,373	5.8	1,660	6.2	7	11.5	
1st Month up to 2nd Month	3,464	10.4	1,342	11.2	4	18.0	
2nd Month up to 3rd Month	2,772	14.1	1,123	15.5	0	18.0	
3rd Month up to 4th Month	2,349	17.2	939	19.0	1	19.7	
4th Month up to 5th Month	2,000	19.9	802	22.0	0	19.7	
5th Month up to 6th Month	1,748	22.2	661	24.5	2	23.0	
6th Month up to 7th Month	1,699	24.5	694	27.1	0	23.0	
7th Month up to 8th Month	1,458	26.4	547	29.1	2	26.2	
8th Month up to 9th Month	1,416	28.3	536	31.1	1	27.9	
9th Month up to 10th Month	1,317	30.1	498	33.0	1	1.0	
10th Month up to 11th Month	1,250	31.7	477	34.8	2	4.3	
11th Month up to 1 Year	1,185	33.3	429	36.4	0	4.3	
1st Year up to 2nd Year	11,526	48.6	4,285	52.4	1	5.9	
2nd Year up to 3rd Year	7,650	58.8	2,621	62.2	6	15.8	
3rd Year up to 4th Year	5,018	65.5	1,755	68.8	2	19.0	
4th Year up to 5th Year	3,192	69.7	1,085	72.9	0	19.0	
5th Year up to 6th Year	2,356	72.9	797	75.9	5	27.2	
6th Year up to 7th Year	1,939	75.5	623	78.2	1	28.9	
7th Year up to 8th Year	1,415	77.3	480	80.0	2	32.1	
8th Year up to 9th Year	1,501	79.3	502	81.9	0	32.1	
9th Year up to 10th Year	1,366	81.2	382	83.3	0	32.1	
10th year up to 15th year	5,765	88.8	1,825	90.1	7	43.6	
15th Year up to 20th Year	2,858	92.6	899	93.5	3	48.5	
20th Year up to 25th Year	1,606	94.8	498	95.4	2	51.8	
25th Year up to 30th Year	676	95.7	199	96.1	3	56.7	
30th Year up to 35th Year	399	96.2	121	96.6	3	61.7	
35th Year up to 40th Year	242	96.5	69	96.8	0	61.7	
40th Year up to 60th Year	84	96.6	27	96.9	0	61.7	
60 Year and Over	0	96.6	0	96.9	0	61.7	

TABLE 33.

**INDUSTRY OF INJURED OR ILL WORKERS
NUMBER, BY NATURE OF ILLNESS
MAINE, 1990**

INDUSTRY	NATURE OF ILLNESS									
	TOTAL	INFECTIVE PARASITIC DISEASES	DERMA- TITIS	INFLAM. OF JOINTS	SYSTEM POISON- ING	RADIA- TION EFFECTS	CONDS. OF NERVOUS SYSTEM	CONDS. OF RESP. SYSTEM	HEART CONDI- TION	ALL OTHER DISEASES
TOTAL, ALL INDUSTRIES	8,286	140	1,020	3,724	560	300	658	165	101	1,618
TOTAL, PRIVATE SECTOR	7,435	100	915	3,534	426	288	597	145	77	1,353
AGRIC., FORESTRY, FISHING	87	0	36	18	2	1	7	2	5	16
CONSTRUCTION	502	8	72	150	53	61	36	13	9	100
MANUFACTURING	3,842	18	490	1,930	247	189	218	78	27	645
Food and Kindred Products	307	0	83	156	11	2	21	3	3	28
Textile Mill Products	137	0	17	88	2	3	8	0	0	19
Apparel and other Textile	85	0	4	52	8	0	8	1	1	11
Lumber and Wood, exc. Furn.	235	0	28	123	6	7	31	9	4	27
Furniture and Fixtures	38	0	7	20	2	2	1	1	0	5
Paper and Allied Products	606	1	77	194	54	9	26	21	13	211
Printing and Publishing	70	0	4	48	2	1	7	1	1	6
Rubber and Misc. Plastic	141	0	24	82	0	2	10	1	0	22
Leather and Leather Prod.	661	5	89	455	10	1	42	6	0	53
Fabricated Metal Products	134	0	18	46	10	25	13	2	0	20
Machinery, exc. Electrical	102	0	16	57	2	11	5	0	2	9
Electrical and Electron. Eq.	242	0	19	136	37	4	26	1	0	19
Transportation Equipment	987	11	86	429	95	115	12	31	2	206
Other Manufacturing Industry	97	1	18	44	8	7	8	1	1	9
TRANSPORTATION AND PUB. UTIL.	200	0	23	52	8	11	23	3	7	73
WHOLESALE TRADE	317	4	26	160	16	3	30	6	4	68
RETAIL TRADE	941	4	75	537	32	4	115	9	13	152
FINANCE, INSURANCE, R. ESTATE	378	0	8	234	5	0	52	8	3	68
SERVICES	1,148	66	179	450	63	19	113	25	7	226
MINING AND OTHER	20	0	6	3	0	0	3	1	2	5
TOTAL, PUBLIC SECTOR	851	40	105	190	134	12	61	20	24	265
STATE GOVERNMENT	404	30	45	88	50	3	32	8	13	135
LOCAL GOVERNMENT	447	10	60	102	84	9	29	12	11	130

TABLE 34.

**NATURE OF INJURIES AND ILLNESSES
NUMBER, BY PART OF BODY AFFECTED
MAINE, 1990**

NATURE OF INJURY OR ILLNESS	PART OF BODY AFFECTED										
	TOTAL	EYES	HEAD NECK	FINGERS	UPPER EXTREM.	BACK	TRUNK	LOWER EXTREM.	MULTI. PARTS	BODY SYSTEM	NOT KNOWN
TOTAL	75,155	6,133	4,842	10,651	13,795	12,521	7,978	11,238	4,900	1,760	1,337
AMPUTATION OR ENUCLEATION	48	0	0	45	2	0	0	1	0	0	0
HEAT BURN	1,464	111	112	179	702	14	48	169	127	0	2
CHEMICAL BURN	1,120	771	92	20	91	2	18	63	57	1	5
INFECTIVE OR PARASITIC DIS.	140	5	23	6	7	0	6	6	53	29	5
CONTUSION, BRUISE, CRUSHING	11,436	116	811	1,687	2,440	564	1,451	3,201	1,150	0	16
CUT, LACERATION, PUNCTURE	12,289	217	1,117	6,700	2,745	26	114	1,288	61	0	21
DERMATITIS	1,020	19	77	80	451	4	23	65	244	4	53
DISLOCATION	843	1	15	43	11	606	117	49	1	0	0
FRACTURE	2,199	0	344	592	384	17	223	610	28	0	1
HERNIA, RUPTURE	346	0	0	0	2	0	344	0	0	0	0
INFLAMMATION OF JOINTS, ETC	3,724	0	27	158	2,225	148	458	348	336	0	24
RADIATION EFFECTS	300	283	5	1	1	0	0	2	5	2	1
SCRATCHES, ABRASIONS	5,237	4,366	132	114	325	20	32	183	55	0	10
SPRAINS, STRAINS	26,740	5	1,105	724	3,334	10,772	4,573	4,491	1,674	1	61
MULTIPLE INJURIES	937	3	56	40	53	17	33	90	643	0	2
SYMPTOMS/ILL-DEFINED COND.	755	38	156	5	9	15	186	12	50	268	16
OTHER AND NONCLASSIFIABLE	6,557	198	770	257	1,013	316	352	660	416	1,455	1,120

TABLE 35.

**NATURE OF INJURIES AND ILLNESSES
NUMBER, BY TYPE OF ACCIDENT OR EXPOSURE
MAINE, 1990**

NATURE OF INJURY OR ILLNESS	TYPE OF ACCIDENT OR EXPOSURE										
	TOTAL	STRUCK BY OR AGAINST	1 FALL	CAUGHT IN UNDER OR BETWEEN	RUBBED ABRADED	BODILY REACTION	OVER EXER- TION	CONTACT WITH TEMP.EX.	CONTACT WITH TOXIC	MOTOR VEHICLE ACCID.	OTHER AND UNKNOWN
TOTAL	75,155	21,934	9,602	2,270	4,855	3,229	23,685	1,521	3,965	858	3,236
AMPUTATION OR ENUCLEATION	48	24	0	22	0	0	1	0	0	0	1
HEAT BURN	1,464	2	3	1	3	0	0	1,391	6	0	58
CHEMICAL BURN	1,120	0	0	1	1	0	0	0	1,108	0	10
CONCUSSION	141	71	57	0	0	0	0	0	0	11	2
INFECTIVE OR PARASITIC DIS.	140	0	0	0	0	0	0	0	137	0	3
CONTUSION, BRUISE, CRUSHING	11,436	6,427	3,516	1,084	27	0	75	0	0	132	175
CUT, LACERATION, PUNCTURE	12,289	10,653	454	449	275	1	23	1	0	46	387
DERMATITIS	1,020	0	0	0	1	0	2	3	1,002	0	12
DISLOCATION	843	43	98	12	14	96	529	0	0	14	37
FRACTURE	2,199	1,080	714	244	1	28	50	0	0	31	51
HERNIA, RUPTURE	346	2	4	0	0	3	329	0	0	2	6
INFLAMMATION OF JOINTS, ETC.	3,724	2	0	0	179	102	3,416	2	1	7	15
SYSTEMIC POISONING	560	0	0	0	0	0	0	1	556	0	3
SCRATCHES, ABRASIONS	5,237	703	150	35	4,173	0	6	0	0	6	164
SPRAINS, STRAINS	26,740	1,487	2,948	161	131	2,884	18,595	2	0	292	240
MULTIPLE INJURIES	937	195	460	36	4	0	18	0	3	138	83
SYMPTOMS/ILL-DEFINED COND.	755	48	21	0	7	13	38	2	164	4	458
RADIATION EFFECTS	514	221	221	5	0	0	0	16	11	0	40
OTHER AND NONCLASSIFIABLE	5,642	976	956	220	39	102	603	103	977	175	1491

1. Includes fall to same level and fall to lower level.

TABLE 36.

**SOURCE OF INJURIES AND ILLNESSES
NUMBER, BY NATURE OF INJURIES AND ILLNESSES
MAINE, 1990**

SOURCE OF INJURY OR ILLNESS	NATURE OF INJURY OR ILLNESS										
	TOTAL	AMPU- TATION	HEAT BURNS	CHEM. BURNS	CONTU- SIONS BRUISES	CUTS LACER- ATIONS	FRACTURE	SCRATCHES ABRASIONS	SPRAINS STRAINS	ALL OTHER DISEASES	OTHER AND UNKNOWN
TOTAL	75,155	48	1,464	1,096	11,457	12,289	2,199	5,261	26,719	8,286	6,336
BODILY MOTION	3,229	0	0	0	21	1	28	0	2,863	137	179
BOILERS, PRESSURE VESSELS	499	0	33	0	89	38	31	11	246	9	42
BOXES, BARRELS, CONTAINERS	7,495	0	74	0	861	634	122	50	5,028	297	429
BUILDINGS AND STRUCTURES	2,383	2	1	0	942	344	114	44	703	16	217
CHEMICALS, CHEMICAL CMPDS.	1,898	0	54	915	0	3	0	55	3	815	53
CLOTHING	346	0	0	0	16	20	0	33	147	122	8
ELECTRIC APPARATUS	643	0	30	0	79	90	15	15	298	27	89
FOOD PRODUCTS	531	0	319	0	7	22	19	11	50	93	10
FURNITURE, FIXTURES, ETC	2,604	1	0	1	900	433	70	55	901	49	194
GLASS ITEMS, NEC	475	0	1	0	1	302	2	114	31	17	7
HAND TOOLS, NOT POWERED	6,006	1	22	0	458	3,738	123	46	1,097	361	160
HAND TOOLS, POWERED	1,421	4	40	1	100	528	38	19	500	134	57
HOISTING APPARATUS	367	2	0	0	132	39	31	2	121	8	32
MACHINES	4,267	29	38	0	728	1,399	163	42	808	801	259
METAL ITEMS	7,538	3	212	1	1,066	2,483	213	1,613	1,522	104	321
MINERAL ITEMS, NONMETALLIC	1,013	0	0	0	82	51	26	551	169	37	97
UNIDENTIFIED PARTICLES	1,364	0	0	1	0	11	0	1,319	1	29	3
PLANT, TREES, VEGETATION	600	0	0	0	93	66	52	68	100	140	81
VEHICLES	4,315	4	20	0	1,237	445	189	38	1,581	90	711
WOOD ITEMS	2,642	1	0	1	510	560	105	399	855	78	133
WORKING SURFACES	8,786	0	1	0	2,950	214	652	120	3,071	177	1,601
PERSON	4,441	0	0	0	488	138	61	251	2,522	688	293
OTHER AND NONCLASSIFIABLE	12,292	1	619	176	697	730	145	405	4,102	4,057	1,360

TABLE 37.

**SOURCE OF INJURIES AND ILLNESSES
NUMBER, BY TYPE OF ACCIDENT OR EXPOSURE
MAINE, 1990**

SOURCE OF INJURY OR ILLNESS	TOTAL	TYPE OF ACCIDENT OR EXPOSURE									
		STRUCK BY OR AGAINST	1 FALL	CAUGHT IN UNDER OR BETWEEN	RUBBED ABRADED	BODILY REACTION	OVER EXER- TION	CONTACT WITH TEMP. EX.	CONTACT WITH TOXIC	MOTOR VEHICLE ACCID.	OTHER AND UNKNOWN
TOTAL	75,155	21,934	9,602	2,270	4,855	3,229	23,685	1,521	3,965	858	3,236
BODILY MOTION	3,229	0	0	0	0	3,227	2	0	0	0	0
BOILERS, PRESSURE VESSELS	499	214	9	23	1	0	215	32	0	0	5
BOXES, BARRELS, CONTAINERS	7,495	1,636	113	210	43	0	5,400	73	0	0	20
BUILDINGS AND STRUCTURES	2,383	1,431	251	161	15	0	517	1	0	0	7
CHEMICALS, CHEMICAL CMPDS.	1,898	5	0	0	42	0	2	54	1,780	0	15
CLOTHING	346	37	2	8	36	0	212	0	40	0	11
ELECTRIC APPARATUS	643	196	14	19	9	0	311	7	2	0	85
FOOD PRODUCTS	531	43	0	1	16	0	71	317	77	0	6
FURNITURE, FIXTURES, ETC	2,604	1,420	215	95	28	0	828	0	3	0	15
GLASS ITEMS, NEC	475	278	10	0	134	0	35	1	16	0	1
HAND TOOLS, NOT POWERED	6,006	4,381	19	64	21	0	1,486	21	1	0	13
HAND TOOLS, POWERED	1,421	649	21	45	7	0	641	39	1	0	18
HOISTING APPARATUS	367	150	9	87	2	0	114	0	0	0	5
MACHINES	4,267	1,975	113	512	14	1	1,522	37	1	2	90
METAL ITEMS	7,538	3,825	146	215	1,640	0	1,477	216	9	0	10
MINERAL ITEMS, NONMETALLIC	1,013	206	32	25	537	0	133	0	72	0	8
UNIDENTIFIED PARTICLES	1,363	12	0	0	1,323	0	0	0	25	0	3
PLANT, TREES, VEGETATION	600	343	18	11	9	0	79	0	138	0	2
VEHICLES	4,315	1,423	273	421	52	0	1,101	19	0	856	170
WOOD ITEMS	2,642	1,246	65	109	395	0	797	0	25	0	5
WORKING SURFACES	8,786	331	8,103	15	252	0	60	1	0	0	24
PERSON	3,677	808	2	20	0	0	2,343	0	1	0	503
OTHER AND NONCLASSIFIABLE	13,057	1,325	187	229	279	1	6,339	703	1,774	0	2,220

1. Includes fall to same level and fall to lower level.

TABLE 38.

**ASSOCIATED OBJECT OR SUBSTANCE
NUMBER, BY TYPE OF ACCIDENT OR EXPOSURE
MAINE, 1990**

ASSOCIATED OBJECT OR SUBSTANCE	TOTAL	TYPE OF ACCIDENT OR EXPOSURE									
		STRUCK BY OR AGAINST	1 FALL	CAUGHT IN UNDER OR BETWEEN	RUBBED ABRADED	BODILY REACTION	OVER- EXER- TION	CONTACT WITH TEMP. EX	CONTACT WITH TOXIC	MOTOR VEHICLE ACCID.	OTHER AND NONCLASS
TOTAL	75,155	21,934	9,602	2,270	4,855	3,229	23,685	1,521	3,965	858	3,236
ANIMALS, INSECTS, ETC.	420	32	14	4	1	0	28	0	149	0	192
BODILY MOTION	1,942	76	172	0	2	1,656	36	0	0	0	0
BOILERS, PRESSURE VESSELS	783	234	73	23	64	15	211	83	71	0	9
BOXES, BARRELS, CONTAINERS	7,564	1,495	274	201	78	25	5,303	141	25	0	22
BUILDINGS AND STRUCTURES	2,276	1,386	153	148	82	13	481	4	2	0	7
CHEMICALS, CHEMICAL COMPOUNDS	1,722	1	1	0	20	0	2	41	1,649	0	8
ELECTRIC APPARATUS	744	194	84	20	19	8	303	12	19	0	85
FURNITURE, FIXTURES, ETC.	3,038	1,549	440	92	68	39	827	0	6	0	17
GLASS ITEMS, NEC	376	235	0	0	89	0	35	1	15	0	1
HAND TOOLS, NOT POWERED	6,553	4,753	93	72	150	5	1,422	33	10	0	15
HAND TOOLS, POWERED	3,027	925	29	44	893	2	631	179	301	0	23
HEATING EQUIPMENT, NEC	384	78	7	8	22	0	74	169	3	0	23
HOISTING APPARATUS	462	193	38	96	7	1	118	0	1	0	8
LADDERS	926	110	585	22	7	36	163	0	0	0	3
MACHINES	4,993	2,171	134	505	463	17	1,527	56	23	2	95
METAL ITEMS	5,186	2,767	153	207	438	22	1,456	125	10	0	8
MINERAL ITEMS, NONMETALLIC	555	127	22	16	155	17	142	0	71	0	5
UNIDENTIFIED PARTICLES	54	0	0	0	43	0	2	0	9	0	0
PLANTS, TREES, VEGETATION	610	326	41	11	13	7	72	0	138	0	2
VEHICLES	5,082	1,553	685	421	261	43	1,032	37	15	855	180
WOOD ITEMS	2,282	1,042	144	95	151	22	799	1	26	0	2
PERSON	4,023	897	253	25	0	2	2,334	2	2	0	508
WORKING SURFACES	7,934	482	5,531	22	255	1,249	357	18	0	1	19
OTHER AND NONCLASSIFIABLE	14,219	1,308	676	238	1,574	50	6,330	619	1,420	0	2,004

1. Includes fall to same level, and fall to lower level.

APPENDIX A

TECHNICAL NOTES

Under the Maine Workers' Compensation Act and the Occupational Disease Law, employers must file a First Report of Occupational Injury or Occupational Illness or its equivalent within seven days of notice or knowledge of each incident which resulted in the loss of at least one day's work or which required the services of a physician. Also, a significant number of voluntary reports are filed that do not meet these conditions, but are submitted to protect the rights of both parties in case of later complications. As the reports are received, they are assigned a number which serves as a unique identifier of that particular case. The First Reports are then coded by the staff of the Research and Statistics Division, Bureau of Labor Standards for the data elements shown below:

<u>DATA ELEMENT</u>	<u>SOURCE</u>	<u>DEFINITION</u>
Case Number	Maine Workers' Compensation Commission (WCC)	Unique number assigned sequentially by the W.C.C.
Employer Number	Bureau of Employment Security (BES)	Unemployment Insurance number assigned by B.E.S.
Industry/Ownership	U.S. Office of Management and Budget, Standard Industrial Classification Manual	A four-digit code assigned to each employer to classify the establishment by type of activity in which they are engaged. An ownership code is also assigned to show whether the employer is in private industry, state government, or local government.
County	State Planning Office, Geographic Coding System	A code is assigned based on the county in which the incident occurred.
Insurance Carrier	National Council of Compensation Insurance (NCCI)	The N.C.C.I. number of the employer's insurance carrier is assigned.
Sex	--	From First Report
Age	--	From First Report
Date	--	The date of occurrence is used if applicable. For illnesses, the date of diagnosis is used.
Time of Accident	--	Time listed is converted to the 4-digit, 24 hour system. (Optional)

APPENDIX A (continued)

<u>DATA ELEMENT</u>	<u>SOURCE</u>	<u>DEFINITION</u>
Length of Service	--	Month coded if less than one year's service; years used otherwise. All fractions rounded downward. (Optional)
Occupation	1980 U.S. Bureau of Census Occupational Classification System	Codes assigned based on occupation listed or determined from the First Report, coded to the 3-digit level.
Nature of Injury or Illness	American National Standards Institute Z16.2 (ANSI)	ANSI Z16.2 as modified is used. All coding is done to the 3-digit level. Identifies the most serious injury or illness in terms of its principal characteristics.
Part of Body Affected	As Above	Coding is done to the 3-digit level. Indicates part of body or the body system associated with the nature of injury or illness.
Source of Injury or Illness	As Above	Coding is done to the 4-digit level. Identifies the object, substance, or motion which directly produced or inflicted the previously identified injury or illness.
Type of Accident or Exposure	As Above	Coding is done to the 3-digit level. Identifies the event which directly led to the injury or illness.
Associated Object or Substance (AOS)	Developed by the Bureau of Labor Statistics, U.S. Dept. of Labor	Using a coding list similar to that for Source, AOS identifies the object, substance, person, or bodily motion with respect to which measures could have been taken to prevent the accident or exposure or mitigate the injury or illness.
Severity	--	Four levels of severity are coded: 1) Fatal 2) Disabling (one or more lost workdays beyond the date of injury). 3) Nondisabling (no lost work time beyond the date of injury). 9) Unknown (not reported)

APPENDIX B

DETAIL TABLES

Data from a series of detail tables produced for the Research and Statistics Division, Bureau of Labor Standards, Department of Labor, by the U.S. Bureau of Labor Statistics is available to the public. A complete list of these tables appears on the following pages. Copies are available upon written request to the Bureau Director, Bureau of Labor Standards, State House Station #45, Augusta, Maine 04333-0045. Please specify table number and title.

SPECIAL STUDIES

The Research and Statistics Division of the Bureau of Labor Standards has the ability to produce special tabulations and studies of the data elements listed in Appendix A. Requests for special studies should be made in writing to the Bureau Director at the above address. The ability to fill such requests is limited, however. There may be charges for reimbursement of costs.

WORK INJURY REPORT (WIR) SURVEYS

The Office of Occupational Safety and Health Statistics of the Bureau of Labor Statistics has conducted several surveys focusing on specific characteristics of accidents. Each survey was conducted in a number of SDS-participating states. The survey respondents were the injured workers who were chosen from First Reports according to survey criteria. No names (firm or injured worker) were disclosed and responses were voluntary.

The responses to these surveys were tabulated and summarized in WIR publications. A list of publications available appears below. Requests for this data may be made in writing to the Bureau Director at the above address. Supplies of these are somewhat limited.

<u>TITLE</u>	<u>PUBLISHED</u>
Injuries to Warehouse Workers	April, 1986
Injuries Resulting From Falls on Stairs	August, 1984
Injuries Resulting From Falls From Elevations	June, 1984
Injuries in the Logging Industry	June, 1984
Accidents Involving Foot Injuries	January, 1981
Accidents Involving Head Injuries	July, 1980
Accidents Involving Face Injuries	May, 1980
Accidents Involving Eye Injuries	April, 1980

APPENDIX B (continued)

LIST OF DETAIL TABLES

<u>NUMBER</u>	<u>PRIMARY CLASSIFICATION</u>	<u>SECONDARY CLASSIFICATION</u>
101	Nature of Injury or Illness	Sex
102	Part of Body Affected	Sex
103	Source of Injury or Illness	Sex
104	Type of Accident or Exposure	Sex
105	Associated Object or Substance	Sex
201	Industry	Nature
202	Industry	Part
203	Industry	Source
204	Industry	Type
205	Industry	AOS
206	Major Industry	Sex
211	Nature	Industry Division
212	Part	Industry Division
213	Source	Industry Division
214	Type	Industry Division
215	AOS	Industry Division
220	Industry Division	Month of Occurrence
221	Industry Division	Day of Week
222	Industry (Major Group)	Hour of Shift
223	Industry (Major Group)	Length of Service
230	Industry (Major Group)	Occupational Illness
240	Industry (Major Group)	Age
301	Occupation	Nature
302	Occupation	Part
303	Occupation	Source
304	Occupation	Type
305	Occupation	AOS
306	Occupation	Sex
311	Nature	Occupation (Private Sector)
312	Part	Occupation (Private Sector)
313	Source	Occupation (Private Sector)
314	Type	Occupation (Private Sector)
315	AOS	Occupation (Private Sector)
330	Occupation	Occupational Illness
340	Occupation	Age
511	Nature	Part
512	Source	Nature
513	Nature	Type
514	Source	Type
515	AOS	Type
516	Part	Nature
517	Type	Nature
520	Industry (Major Group)	Occupation
521	Industry (Division)	Occupation
530	Occupation	Industry (Division)

APPENDIX C

LISTING OF INDIVIDUAL FATALITY REPORTS FOR 1990

The following is a listing of the 61 fatalities received by the Workers' Compensation Commission for the year 1990. They are arranged by industry group and ownership.

<u>INDUSTRY</u>	<u>DATE</u>	<u>OCCUPATION</u>	<u>AGE</u>	<u>SEX</u>	<u>EVENT</u>
<u>AGRICULTURE, FORESTRY, AND FISHING</u>					
	08-13-90	Blueberry Raker	77	M	Heart Attack
	06-29-90	Landscape Laborer	45	M	Heart Attack
	09-08-90	Truck Driver	60	M	Run over by Truck
	10-24-90	Mechanic	54	M	Heart Attack
	11-08-90	Mechanic	31	M	Crushed in Grinder
<u>CONSTRUCTION</u>					
	10-26-90	Drill Bit Sharpener	46	M	Heart Attack
	11-05-90	Sheet Metal Worker	32	M	Fell through Roof
	11-14-90	Equipment Operator	51	M	Run over by Truck
	01-30-90	Electrician	67	M	Asbestosis
<u>MANUFACTURING</u>					
	02-10-90	Yard Laborer	65	M	Cancer
	02-12-90	Presser	45	F	Heart Attack
	02-26-90	Car Liner	59	M	Unknown
	05-03-90	Driver	54	M	Struck by Moose
	05-14-90	Dough Maker	48	M	Heart Attack
	05-30-90	Truck Driver	24	M	Electrocution
	05-31-90	Skidder Operator	43	M	Crushed by Skidder
	06-18-90	Logger	60	M	Unknown
	07-02-90	Logger	54	M	Struck by Tree
	07-09-90	Logger	58	M	Struck by Tree
	07-18-90	Sawmill Laborer	20	M	Suicide by Gunshot
	07-23-90	Crew Chief	53	M	Heart Attack
	07-31-90	Loader Operator	59	M	Struck by Truck
	07-31-90	Machine Repairer	58	M	Heart Attack
	09-26-90	Bulldozer Operator	48	M	Heart Attack
	10-15-90	Logger	48	M	Struck by Tree
	11-30-90	Administrative Spec.	29	F	Unknown
	12-06-90	Pulp Preparer	59	M	Heart Attack
<u>TRANSPORTATION AND PUBLIC UTILITIES</u>					
	05-28-90	Ticket Agent	70	F	Auto Accident
	11-06-90	Truck Driver	40	M	Auto Accident
	12-04-90	Truck Driver	52	M	Heart Attack

APPENDIX C (continued)

<u>INDUSTRY</u>	<u>DATE</u>	<u>OCCUPATION</u>	<u>AGE</u>	<u>SEX</u>	<u>EVENT</u>
<u>WHOLESALE</u>					
	02-01-90	Office Manager	43	M	Heart Attack
	09-21-90	Truck Driver	49	M	Auto Accident
	12-15-90	Service Technician	35	M	Unknown
<u>RETAIL</u>					
	01-30-90	Produce Clerk	61	M	Heart Attack
	03-23-90	Truck Driver	22	M	Auto Accident
	05-14-90	Grocery Clerk	68	M	Heart Attack
	06-29-90	Manager	49	M	Heart Attack
	08-10-90	Assistant Manager	40	M	Auto Accident
	09-20-90	Cashier	20	F	Stabbed
	12-29-90	Janitor	60	M	Heart Attack
<u>FINANCE, INSURANCE, AND REAL ESTATE</u>					
	05-07-90	Parking Attendant	77	M	Heart Attack
<u>SERVICES</u>					
	05-14-90	Director	48	M	Heart Attack
	05-19-90	Shuttle Driver	20	F	Drowned
	05-24-90	Instructor	30	F	Auto Accident
	05-24-90	Purchasing Agent	42	M	Auto Accident
	05-20-90	Ski-lift Operator	68	M	Fell off Ski-lift
	07-13-90	Camp Counselor	16	M	Suicide by Hanging
	07-23-90	Raft Guide	25	M	Auto Accident
	11-28-90	C.N.A	41	F	Suicide by Hanging
<u>GOVERNMENT</u>					
	01-18-90	Firefighter	63	M	Auto Accident
	01-23-90	Police Lieutenant	43	M	Heart Attack
	06-23-90	Watch Engineer	58	M	Heart Attack
	07-13-90	Veteran's Counselor	56	M	Heart Attack
	07-13-90	Farm Laborer	77	M	Lung Cancer
	07-25-90	Surveyor	47	M	Struck by Car
	08-20-90	Firefighter	36	M	Heart Attack
	09-28-90	Employment Couns.	57	M	Unknown
	10-01-90	Police Officer	29	M	Auto Accident
	10-17-90	Firefighter	58	M	Heart Attack
	12-13-90	Firefighter	46	M	Auto Accident
	12-29-90	Legislator	63	M	Auto Accident

APPENDIX D

MAINE'S ON-SITE JOB SAFETY AND HEALTH CONSULTATION PROGRAM

- ...provides the employer with a cost-free safety and health inspection without penalty provisions and a confidential written report.
- ...provides a pre-construction review of plans or specifications for potential safety and health problems.
- ...provides the employer with equipment and laboratory assistance to measure potential safety and health problems.
- ...provides safety and health alternative correction action to assist in complying with OSHA citations.
- ...provides safety and health inspections of only those areas in establishment specified by the employer.

The Maine job safety and health consultation program began in 1978 to help employers, primarily small employers, maintain a safe workplace by understanding and complying with OSHA regulations. This is a cost-free and penalty-free program conducted under a contract between the Maine Department of Labor and the U.S. Department of Labor.

The consultant will first meet with the employer to explain the procedures and to update them on OSHA activities. Next, the consultant will inspect the workplace and will note any violations of rules and potential hazards. The employer is encouraged, but not required, to have worker representatives participate.

When the inspection is completed, the consultant will review the findings with the employer, including how the standards apply to the workplace, which OSHA rules they may be violating, and the ways to correct the deficiencies. The consultant also can help them interpret the standards and inform them of other available resources, or aid the employer in correcting safety and health problems.

Later, the employer will receive a written technical report covering the information given them during the visit, including the specific rules which apply and ways to correct violations.

If you would like more information on this program or would like to request a consultation, call the Bureau of Labor Standards' Safety Division at 624-6460 or write to them at Station 82, Augusta, Maine 04333-0082.

MAINE'S LOW INTEREST LOAN PROGRAM

The State of Maine has a low interest loan program for Maine employers who wish to purchase equipment which will improve the healthfulness and safety of their workplaces. Loans of up to \$50,000 are provided at three percent interest for a maximum repayment period of ten years. For further information about this program, call the Bureau of Labor Standards at 624-6460 or call the Finance Authority of Maine at 289-FAME.

APPENDIX E
COMMENTS FORM

Characteristics of Work-Related Injuries and Illnesses in Maine, 1990

Your comments about this material will help us to improve our publications. We are interested in any feedback concerning its usefulness, accuracy, organization, and completeness. Requests for additional copies will be filled subject to availability (see Appendix F). Requests for further details on this subject should be sent to the Bureau Director at the address below. These requests may be denied due to confidentiality restrictions.

Please indicate your position or title: _____

How suitable is this material for your own requirements?

____ Very Suitable ____ Suitable ____ Not Suitable

What information not presently covered should be included? _____

What information presently covered should be excluded? _____

Additional comments: _____

Please return this page to:

Maine Department of Labor
Bureau of Labor Standards
Research and Statistics Division
State House Station #45
Augusta, ME 04333-0045

If you wish a reply, please include your name and mailing address.

APPENDIX F
ORDER FORM

The following items are available without charge from:

Maine Department of Labor
Bureau of Labor Standards
Research and Statistics Division
State House Station #45
Augusta, ME 04333-0045

PUBLICATIONS (some years may be out of print)

- Occupational Injuries and Illnesses in Maine (publication began with the 1975 calendar year)
- Characteristics of Work-Related Injuries and Illnesses in Maine (beginning 1977)
- Census of Maine Manufactures (beginning 1945)
- Directory of Maine Labor Organizations (latest year only is available)
- Maine Construction Wage Rates (beginning 1983)
- Labor Relations in Maine (beginning 1983)

OSHA RECORDKEEPING MATERIALS

- Supplementary Record of Occupational Injuries and Illnesses, OSHA No. 101
- Log and Summary of Occupational Injuries and Illnesses, OSHA No. 200
- Poster: Safety and Health Protection on the Job
- Recordkeeping Requirements Guidelines
- A Brief Guide to Recordkeeping Requirements

CONSULTATION PROGRAM

- Booklet: Maine's On-Site Safety and Health Consultation program
- Please contact me concerning an on-site safety and health consultation.
My phone number is _____

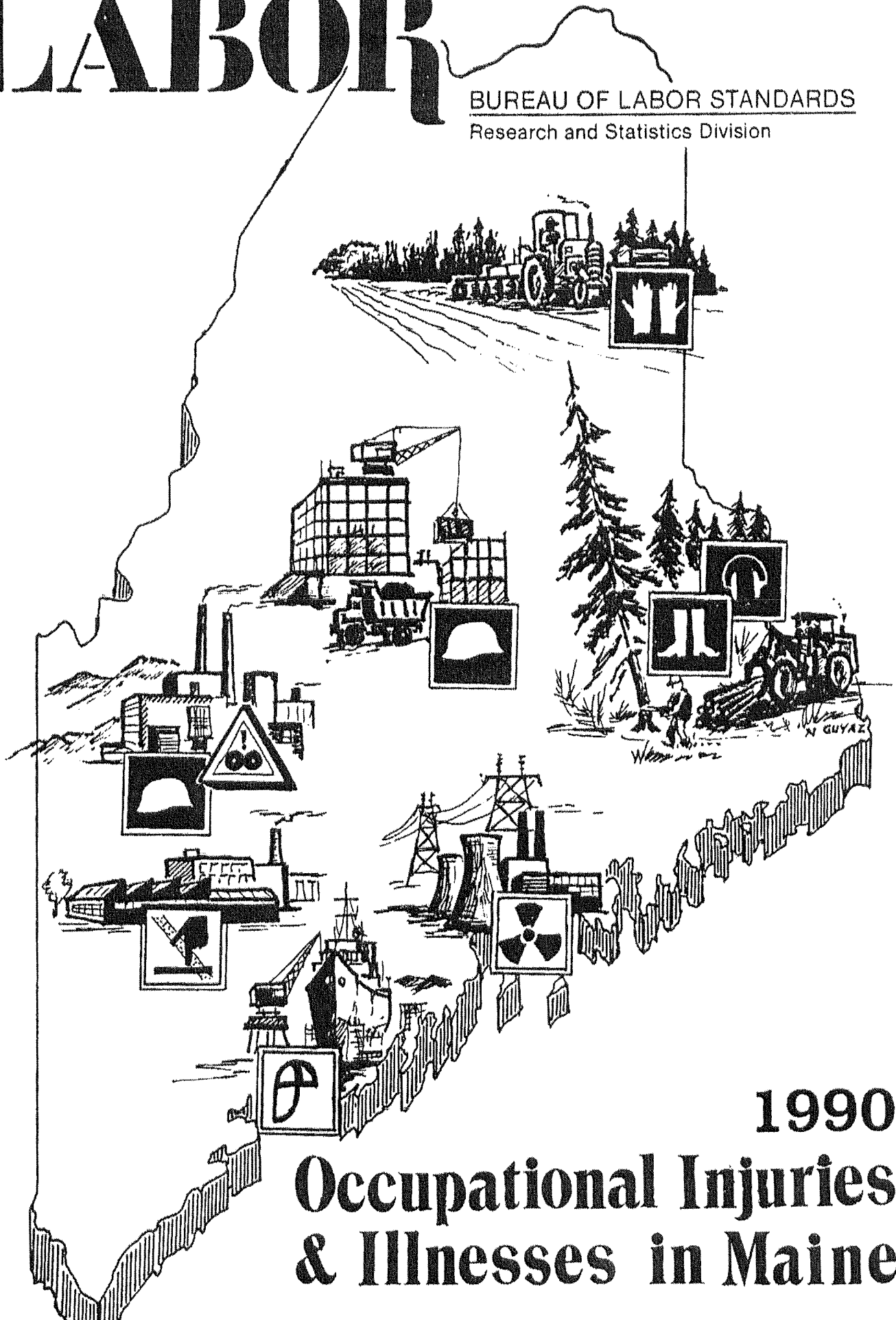
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MAINE DEPARTMENT OF

LABOR

BUREAU OF LABOR STANDARDS

Research and Statistics Division



1990 Occupational Injuries & Illnesses in Maine

**OCCUPATIONAL INJURIES
AND
ILLNESSES IN MAINE
1990**

Prepared By:

Maine Department of Labor
Bureau of Labor Standards
Research & Statistics Division

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December, 1991

In Cooperation With

U.S. Department of Labor
Bureau of Labor Statistics

Grant No. 40F00012

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INTRODUCTION

The Occupational Safety and Health (OSH) Act of 1970 created an extensive and detailed set of regulations that applied to most private employers in the United States who had not been covered by previous safety legislation. Under the OSH Act, employers are required to keep records of all work-related deaths, all occupational illnesses, and those work-related injuries which involve restriction of work or motion, loss of consciousness, temporary transfer to another job, or medical treatment beyond first aid (see Appendix C for the distinction between medical treatment and first aid). It is hoped that keeping these records will encourage both employers and workers to be more aware of maintaining safe and healthful working conditions.

The United States Department of Labor, Bureau of Labor Statistics, is the federal agency authorized under the Act to develop and maintain the annual occupational injury and illness survey program. BLS created a federal/state cooperative system to fulfill this function. The recordkeeping system is designed to assist the Occupational Safety and Health Administration in establishing standards and identifying hazardous industries. The survey is intended to provide the Bureau of Labor Statistics and cooperating state agencies with a statistical base. The Maine Department of Labor, Bureau of Labor Standards, Research and Statistics Division is the agency designated to collect, compile, and analyze the injury and illness data for the State of Maine. The results of this cooperative program are presented in this report.

Survey year 1990 represents the nineteenth full year of data collection for the OSH survey. This publication examines trends and patterns in the information collected over the past 11 years in an effort to better analyze and interpret this year's results.

In 1987, the Standard Industrial Classification (SIC) system was updated to reflect changes in the economy's industrial makeup. The data in this publication for 1980 to 1987 are based on the 1972 edition (1977 update) of the Standard Industrial Classification. The data for 1988 to the present are based on the revised 1987 Standard Industrial Classification.

NOTE: Caution should be taken when comparing the data based on each of these versions due to the fact that some companies shifted into new groupings in the 1987 Standard Industrial Classification Manual.

1990 OCCUPATIONAL SAFETY AND HEALTH SURVEY HIGHLIGHTS

- * Recordable occupational injuries and illnesses occurred at an estimated rate of 14.3 cases for every 100 full-time workers in 1990. This statistic represents a decrease of 1.8 percent from the 1989 total case incidence rate of 14.5 injuries and illnesses per 100 full-time workers.
- * There were an estimated 51,258 OSHA recordable occupational injuries and illnesses during 1990, of which, 25,093 involved one or more lost workdays (including days away from work or days of restricted work activity). This statistic represents a decrease in total cases of 2,202, or 8.1 percent, from 1989 to 1990.
- * Ninety percent of all work-related injuries and illnesses in Maine during 1990 were injuries; 10 percent were illnesses.
- * There were an estimated 45,988 recordable injuries in Maine in 1990, 2,151 fewer cases than in 1989.
- * There were an estimated 5,270 recordable illnesses in Maine in 1990, 345 more cases than in 1989.
- * The estimated number of lost workdays due to occupational injuries and illnesses decreased in 1990 by 4.6 percent to 620,900. While the estimated number of lost workdays due to injuries decreased 7.3 percent to 515,787, the estimated number of lost workdays due to illnesses increased 11.0 percent to 105,113.
- * In 1990 there were an estimated 620,900 lost workdays recorded. Of these, approximately 428,190 were days away from work and 192,710 were days of restricted work activity. These statistics mean that as a result of occupational injuries and illnesses in Maine in 1990, there was a loss to Maine's private sector economy of 1,713 worker years away from work and 771 restricted worker years for a total of 2,484 lost worker years. This figure represents a decrease from 1989 when over 2,600 worker years of labor were lost.
- * Increases in occupational illnesses occurred in every illness type recognized in the survey except in one illness category. The most notable changes occurred in poisoning, dust diseases of the lungs, and skin diseases and disorders which increased 57.1 percent, 20.0 percent, and 19.2 percent respectively. The one category which showed a decline was respiratory diseases due to toxic agents, which fell 25.9 percent.
- * Each lost workday case in 1990 resulted in an average of 25 lost workdays, up from last year's figure of 24 lost workdays per lost workday case. Each lost workday injury in 1990 involved an average of 23 lost workdays, while each lost workday illness involved an average of 42 lost workdays per lost workday illness case.
- * Total case incidence rate increased in Transportation (2.9 percent), Wholesale Trade (3.8 percent), Retail Trade (7.2 percent), Finance (34.5 percent), and Services (8.0 percent), while decreases occurred in Agriculture (5.7 percent), Construction (11.7 percent), and Manufacturing (1.6 percent).

CALCULATING YOUR FIRM'S INCIDENCE RATE

In the annual Occupational Injuries & Illnesses Survey, data is collected from a selected sample of Maine's private sector employers regarding their safety and health experience during the previous year. By simply examining the number of injuries and illnesses for different industries, meaningful comparisons would be difficult because of the various size workforces and various patterns of working hours. Additional information is needed beyond the number of cases.

Therefore, in addition to the number of injuries, illnesses, and associated lost workdays, the survey asks for the total number of hours actually worked by all of the company's employees during the survey year. This figure, known as the number of exposure hours, allows the computation of the number of cases or lost workdays for every 100 full-time equivalent workers (200,000 exposure hours). The result, known as an incidence rate, permits year-to-year and industry-to-industry comparisons. The formula by which incidence rates are computed is as follows (in all cases, the figure given as the incidence rate should be understood to represent the number of cases or lost workdays per 100 full-time workers):

$$\text{INCIDENCE RATE (IR)} = (N \times 200,000) / \text{EH}$$

N = NUMBER OF INCIDENTS

**EH = TOTAL HOURS WORKED BY EMPLOYEES IN ONE YEAR,
EXCLUDING VACATION TIME & SICK LEAVE**

An example of the calculation of incidence rate follows:

FIRM X

Number of cases = 5
Number of employees = 20
Hours worked per week = 30
Weeks worked per year = 48

$$\text{EH} = 20 \times 30 \times 48 = 28,800$$

$$\text{IR} = 5 \times 200,000 / 28,800 = 34.7$$

FIRM Y

Number of cases = 15
Number of employees = 50
Hours worked per week = 40
Weeks worked per year = 48

$$\text{EH} = 50 \times 40 \times 48 = 96,000$$

$$\text{IR} = 15 \times 200,000 / 96,000 = 31.3$$

This example exhibits the usefulness of incidence rates. By just comparing the number of cases, it appears that Firm Y had a poorer safety record than Firm X. However, by comparing incidence rates, which compares both firms at a common base, Firm Y actually has a better safety record.

An incidence rate can be calculated for injuries, illnesses, or the sum of both. Within any of these categories, rates can be identified for total cases, lost workday cases, nonfatal cases without lost workdays, days away from work, days of restricted work activity, or total lost workdays. In bold print below, you will find a list of various incidence rates that you can compute. Use the numbers on your OSHA 200 log form for the columns specified and plug the figure into the formula in place of N.

***Total Case Incidence Rate = Columns 1+2+6+8+9+13**

***Lost Workday Case Incidence Rate = Columns 2+9**

***Incidence Rate for Nonfatal Cases without Lost Workdays = Columns 6+13**

***Total Lost Workdays Incidence Rate = Columns 4+5+11+12**

***Incidence Rate for Days Away from Work = Columns 4+11**

***Incidence Rate for Restricted Workdays = Columns 5+12**

***Total Case Incidence Rate for Injuries = Columns 1+2+6**

***Lost Workday Case Incidence Rate for Injuries = Column 2**

***Injury Incidence Rate for Nonfatal Cases without Lost Workdays = Column 6**

***Total Lost Workdays Incidence Rate for Injuries = Columns 4+5**

***Injury Incidence Rate for Days Away from Work = Column 4**

***Injury Incidence Rate for Restricted Workdays = Column 5**

***Total Case Incidence Rate for Illnesses = Columns 8+9+13**

***Lost Workday Case Incidence Rate for Illnesses = Column 9**

***Illness Incidence Rate for Nonfatal Cases without Lost Workdays = Column 13**

***Total Lost Workdays Incidence Rate for Illnesses = Columns 11+12**

***Illness Incidence Rate for Days Away from Work = Column 11**

***Illness Incidence Rate for Restricted Workdays = Column 12**

MAINE'S CONSULTATION AND TRAINING PROGRAMS

The Maine Department of Labor, Bureau of Labor Standards offers safety consultation and training programs to businesses in the state. These services are provided free of charge. Since Maine is a Federal OSHA state, the Bureau of Labor Standards operates in a non-enforcement manner in an attempt to foster safety awareness and voluntary compliance. Through these programs, the staff of the bureau:

-assists Maine employers in developing and maintaining healthful and safe workplaces.
-offers **penalty-free** and **cost-free** safety and health inspections.
-discusses the problems found during inspection and suggest ways to correct them.
-provides a written report covering the problems discovered during the inspection, including suggestions for correcting them.
-offers a pre-construction review of plans or specifications for potential safety and health problems.
-offers assistance in measuring potential safety and health problems.
-offers assistance in correcting violations uncovered during an OSHA inspection.
-offers training in many occupational safety and health topics.

If you would like more information about this program or would like to request a consultation, call the Bureau of Labor Standards' Safety Division at 624-6460, or write to State House Station #82, Augusta, Maine 04333.

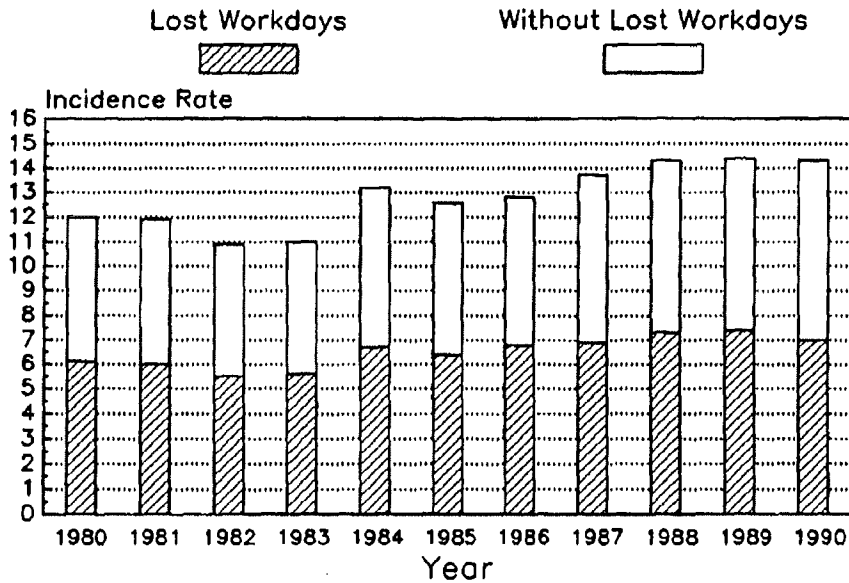
MAINE'S LOW INTEREST LOAN PROGRAM

The State of Maine has a low interest loan program for Maine employers who wish to purchase equipment which will improve the healthfulness and safety of their workplaces. Loans of up to \$50,000 are provided at 3 percent interest for a maximum repayment period of 10 years. **For further information about this program call the Bureau of Labor Standards at 624-6460 or call the Finance Authority of Maine at 289-FAME.**

OCCUPATIONAL INJURY AND ILLNESS INCIDENCE RATES

Recordable occupational injuries and illnesses occurred at a rate of 14.3 cases for every 100 full-time workers in Maine in 1990. This represents a decrease of 1.4 percent from 1989 when a rate of 14.5 was recorded. The all-industry total case incidence rate represents the experience of 435,273 workers in Maine's private sector. Lost workday cases (those involving days away from work or days of restricted work activity or both) occurred at the rate of 7.0 cases per 100 workers, a decrease of 5.4 percent. The incidence rate for injuries and illnesses without lost workdays was 7.3, an increase of 4.3 percent over 1989.

Figure 1. Total Case Incidence Rates by Case Type
Maine 1980-1990



ANNUAL AVERAGE EMPLOYMENT AND TOTAL HOURS WORKED

As illustrated in Figure 2 and Figure 3, annual average employment and hours worked in the private sector decreased for the first time since 1982 after a seven year increase. Employment dropped 1.9 percent to 435,273 and total hours worked fell 2.4 percent to 715.5 million in 1990.

Figure 2. Annual Average Employment
Maine 1980-1990

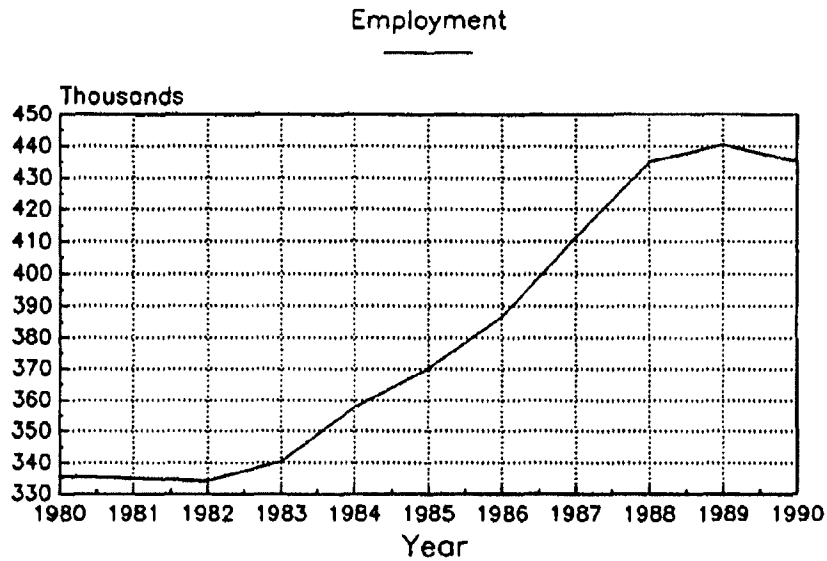
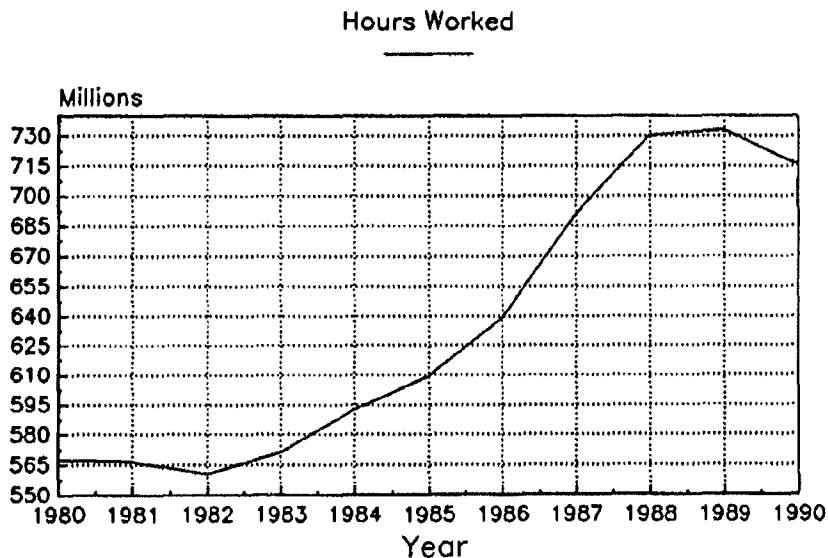


Figure 3. Total Hours Worked
Maine 1980-1990

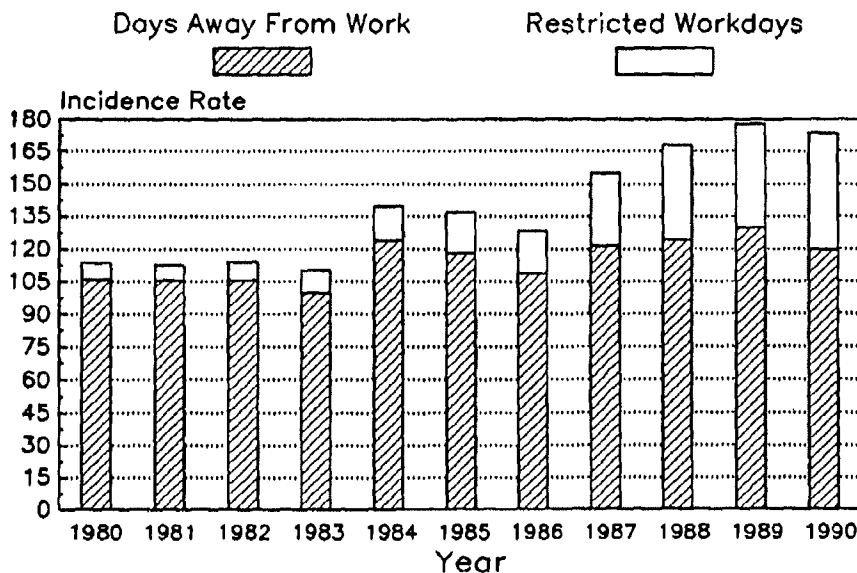


LOST WORKDAYS AND LOST WORKDAY INCIDENCE RATES

Lost workdays include days that an employee is totally absent from work, as well as days that an employee's work activity is restricted. Restrictions occur when an employee is transferred to another job temporarily, the employee is only able to work part time on his/her normal job because of the injury or illness, or the employee works full time on his/her regular job but cannot do all activities normally associated with the job (e.g., a lifting restriction of 30 pounds). The day an injury occurs or the day an illness is recognized is not counted. The incidence rate for total lost workdays in 1990 was 173.6 days for every 100 full-time workers, 119.7 days away from work and 53.9 days of restricted work activity.

After a steady increase in the lost workday incidence rates from 1986 to 1989, the incidence rate dipped slightly in 1990. This decrease was due to a lowering of the incidence rate for days away from work, a component of the total lost workdays. However, the incidence rate for restricted workdays has progressively increased since 1981, contributing to the overall increase in incidence rates for this category. The ratio of incidence rates for days away from work to restricted workdays has steadily decreased since 1981. In 1990, days away from work made up 69.0 percent of all lost workdays while days of restricted work activity made up 21.0 percent.

Figure 4. Lost Workday Incidence Rates by Category
Maine 1980-1990



OCCUPATIONAL INJURIES

An occupational injury is an instantaneous event such as a cut, fracture, sprain, amputation, etc., which results from a work accident or from an exposure involving a single incident in the work environment. In 1990, Maine's private sector recorded 12.9 occupational injuries per 100 full-time workers. This figure represents a decrease of 1.5 percent over 1989. The incidence rate for injuries with lost workdays decreased from 6.8 in 1989 to 6.3 in 1990. The lost workday rate due to injuries decreased from 151.7 days per 100 full-time workers in 1989 to 144.2 in 1990, a decrease of 4.9 percent. In 1990, 89.7 percent of all recordable cases were classified as injuries.

Text Table A: Injury Incidence Rates by Case Type, Maine, 1980-1990

<u>Survey Year</u>	<u>Incidence Rates</u>			
	<u>Total Injuries</u>	<u>Lost Workday Injuries</u>	<u>Lost Workdays due to Injuries</u>	<u>Percent of all Cases that were Injuries</u>
1980	11.6	5.9	108.9	96.4
1981	11.4	5.7	106.5	95.9
1982	10.3	5.2	102.1	94.6
1983	10.4	5.3	98.9	94.9
1984	12.6	6.4	129.0	95.1
1985	12.0	5.9	127.4	95.8
1986	12.2	5.7	118.4	95.0
1987	12.7	6.4	137.2	93.1
1988	13.4	6.9	148.0	93.0
1989	13.1	6.8	151.7	91.0
1990	12.9	6.3	144.2	89.7

OCCUPATIONAL ILLNESSES

An occupational illness is an abnormal condition or disorder, other than one resulting from an occupational injury (an instantaneous or one-time event), caused by exposure to environmental factors at work. Illnesses include anything developed over time, such as tendonitis or carpal tunnel syndrome. In 1990, Maine's private sector recorded 1.5 occupational illnesses per 100 full-time workers. This figure represents an increase of 15.4 percent over 1989. The incidence rate for illnesses with lost workdays increased to 0.7 in 1990 from 0.6 cases per 100 full-time workers in 1989. The lost workday rate due to illnesses increased from 25.8 days per 100 full-time workers in 1989 to 29.4 days in 1990, an increase of 14.0 percent. In 1990, 10.3 percent of all recordable cases were classified as illnesses.

Text Table B: Illness Incidence Rates by Case Type, Maine, 1980-1990

<u>Survey Year</u>	<u>Incidence Rates</u>			
	<u>Total Illnesses</u>	<u>Lost Workday Illnesses</u>	<u>Lost Workdays due to Illness</u>	<u>Percent of all Cases that were Illnesses</u>
1980	0.4	0.2	4.8	3.6
1981	0.5	0.3	5.9	4.1
1982	0.6	0.4	11.9	5.4
1983	0.6	0.3	11.2	5.1
1984	0.6	0.3	10.4	4.9
1985	0.5	0.3	9.2	4.2
1986	0.6	0.3	9.8	5.0
1987	0.9	0.5	17.7	6.9
1988	1.0	0.5	19.8	7.0
1989	1.3	0.6	25.8	9.0
1990	1.5	0.7	29.4	10.3

As shown in Text Table C, the estimated number of occupational illnesses increased by 7.0 percent from 1989 to 1990. Of the seven illness categories (see Appendix F for descriptions of the types of illnesses in each category), six reported increases. Most notable increases occurred in **poisoning due to toxic material** (57.1 percent), **dust diseases of the lungs** (20.0 percent), and **skin diseases and disorders** (19.2 percent). **Disorders associated with repeated trauma**, including tendonitis and carpal tunnel syndrome, increased only 7.0 percent but accounted for 61.6 percent of all occupational illnesses in 1990. Only **respiratory diseases due to toxic agents** showed a decrease (-25.9 percent).

Text Table C: Number of Occupational Illnesses by Category, Maine, 1989-1990

<u>Category of Illness</u>	<u>Number of Illnesses</u>		
	<u>1989</u>	<u>1990</u>	<u>%Chg</u>
Total all Categories	4,925	5,270	7.0
Disorders associated with repeated trauma	3,035	3,247	7.0
Occupational skin diseases and disorders	651	776	19.2
Respiratory diseases due to toxic agents	459	340	-25.9
Disorders due to physical agents	424	447	5.4
Poisoning (systemic effects of toxic material)	42	66	57.1
Dust diseases of the lungs	25	30	20.0
All other occupational illnesses	280	349	24.6

Figures 5 and 6 illustrate the number of occupational illnesses over the past 2 survey years. Each chart represents the percentage breakdown of each illness category as it relates to total illnesses recorded in each year.

Figure 5. Number of Occupational Illnesses by Type
Maine 1989

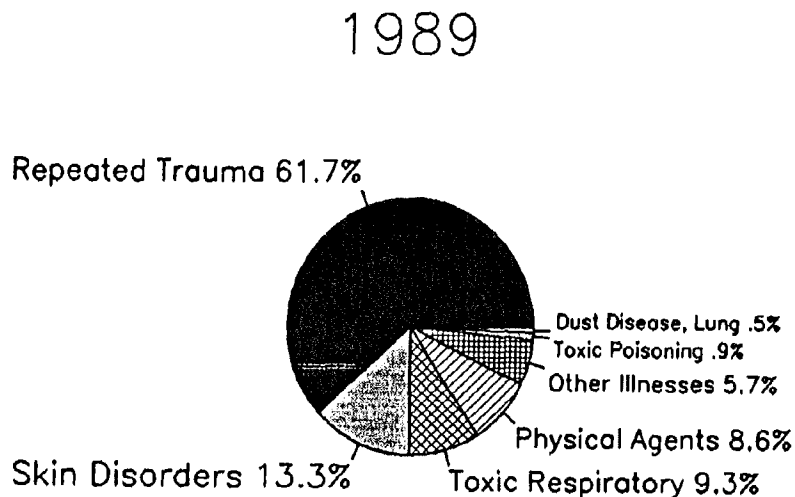
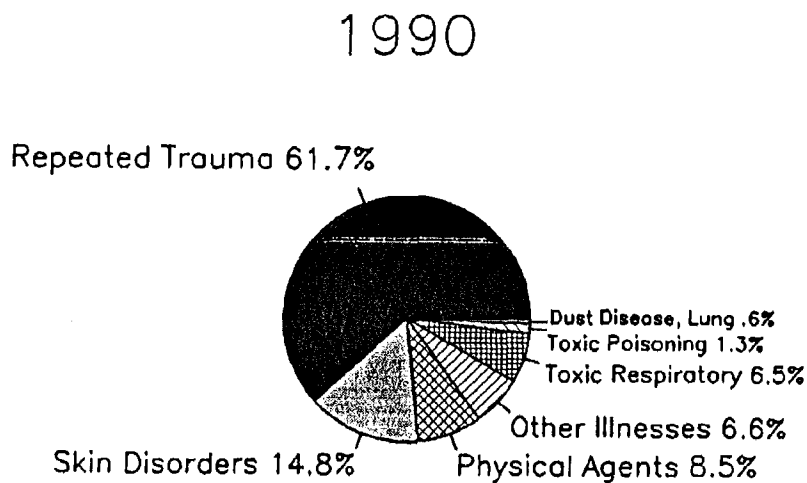


Figure 6. Number of Occupational Illnesses by Type
Maine 1990



INDUSTRY DIVISION ANALYSIS

Industry divisions are defined using the Standard Industrial Classification (SIC) system (see Appendix F). Data are provided for eight industry divisions: Agriculture, Construction, Manufacturing, Transportation, Wholesale Trade, Retail Trade, Finance, and Services.

From 1989 to 1990, total case incidence rates increased in five industry divisions and decreased in three divisions. The largest increases occurred in Finance (34.5 percent), Services (8.0 percent), and Retail Trade (7.2 percent). The three industries that experienced decreases in total case incidence rates were Construction (-12.1 percent), Agriculture (-5.7 percent), and Manufacturing (-1.6 percent).

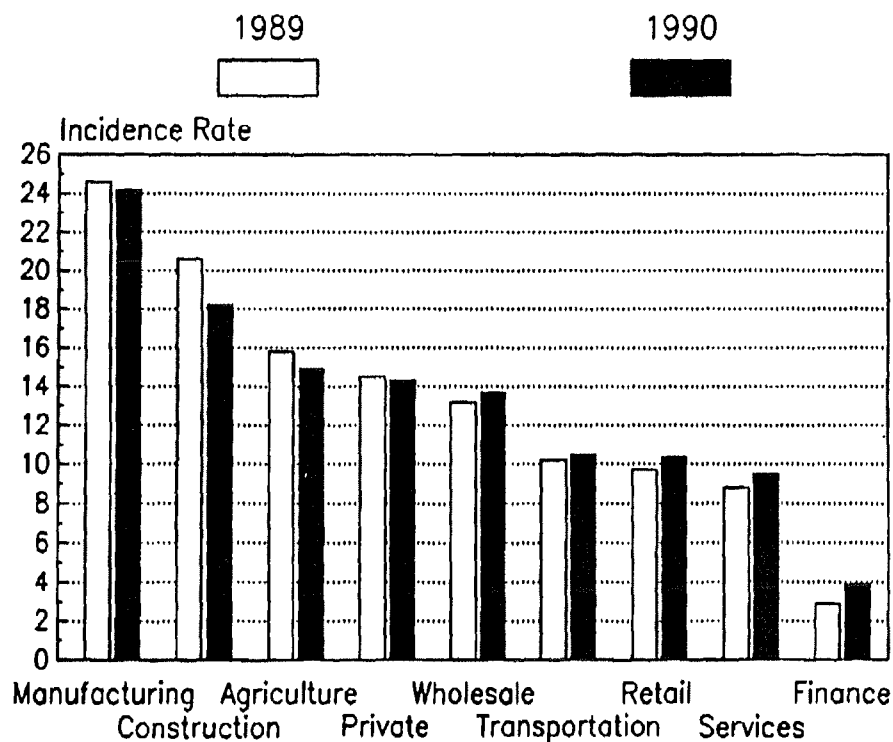
Text Table D: Total Case Incidence Rates by Case Type, by Industry Division, Maine, 1989 - 1990

<u>Industry (SIC)</u>	<u>Incidence Rates</u>								
	<u>Total Cases</u>			<u>Lost Workday Cases</u>			<u>Nonfatal Cases w/o Lost Workdays</u>		
	<u>1989</u>	<u>1990</u>	<u>%Chg</u>	<u>1989</u>	<u>1990</u>	<u>%Chg</u>	<u>1989</u>	<u>1990</u>	<u>%Chg</u>
PRIVATE SECTOR	14.5	14.3	-2.1	7.4	7.0	-5.4	7.0	7.3	2.9
Agriculture (01-09)	15.8	14.9	-5.7	9.1	7.4	-18.7	6.7	7.2	7.5
Construction (15-17)	20.6	18.2	-12.1	10.2	8.8	-13.7	10.3	9.4	-8.7
Manufacturing (20-39)	24.6	24.2	-1.6	12.4	12.2	-1.6	12.2	11.9	-2.5
Transportation (40-49)	10.2	10.5	2.9	5.4	5.1	-5.6	4.8	5.4	12.5
Wholesale Trade (50-51)	13.2	13.7	3.8	7.6	7.2	-5.3	5.6	6.5	16.1
Retail Trade (52-59)	9.7	10.4	7.2	4.7	4.7	0.0	5.0	5.7	14.0
Finance (60-67)	2.9	3.9	34.5	1.5	1.8	20.0	1.4	2.0	42.9
Services (70-89)	8.8	9.5	8.0	4.9	4.5	-8.2	3.9	5.0	28.2

Six of eight industry divisions recorded decreases in their lost workday case incidence rates, with the largest decreases occurring in Agriculture (-18.7 percent), Construction (-13.7 percent), and Services (-8.2 percent). The lost workday case incidence rate for Retail Trade remained steady in 1990.

The All-Industry incidence rate for cases without lost workdays rose to 7.3 cases per 100 full time workers in 1990 from 7.0 in 1989 due mainly to decreases in Construction and Manufacturing.

Figure 7. Total Case Incidence Rates by Case Type by Division
Maine 1989-1990



The total lost workday incidence rate decreased 2.3 percent from 1989 to 1990. This was due to a decrease of 7.9 percent in the incidence rate for days away from work which outweighed the 13.0 percent increase in the incidence rate for days of restricted work activity since the majority of lost time were from days away from work. The largest decreases in total lost workday incidence rates occurred in Agriculture (-17.5 percent), Construction (-15.8 percent), and Services (-3.8 percent). The most notable increases occurred in Transportation (60.2 percent) and Finance (34.9 percent).

Text Table E: Lost Workday Incidence Rates by Category, by Industry Division, Maine, 1989-1990

Industry (SIC)	Incidence Rates										
	Lost Workdays			=	Days Away From Work			+	Days of Restricted Work Activity		
	1989	1990	%Chg	1989	1990	%Chg	1989	1990	%Chg		
PRIVATE SECTOR	177.6	173.6	-2.3	129.9	119.7	-7.9	47.7	53.9	13.0		
Agriculture (01-09)	218.9	180.4	-17.5	192.5	162.8	-15.4	26.4	17.6	-33.3		
Construction (15-17)	261.2	220.0	-15.8	236.9	201.8	-14.8	24.3	18.2	-25.1		
Manufacturing (20-39)	320.9	314.4	-2.0	198.6	175.0	-11.9	122.3	139.3	13.9		
Transportation (40-49)	124.0	198.7	60.2	112.4	170.2	51.4	11.6	28.5	145.7		
Wholesale Trade (50-51)	147.3	155.4	5.5	117.2	118.5	1.1	30.1	36.9	22.6		
Retail Trade (52-59)	101.0	100.1	-0.9	81.3	79.0	-2.8	19.7	21.1	7.1		
Finance (60-67)	39.0	52.6	34.9	32.0	38.7	20.9	7.0	13.9	98.6		
Services (70-89)	102.0	98.1	-3.8	85.0	77.7	-8.6	17.0	20.4	20.0		

Text Table F: Published Employment and Total Hours Worked by
Industry Division, Maine, 1989-1990

<u>Industry (SIC)</u>	<u>Published Employment</u> (in thousands)			<u>Total Hours Worked</u> (in millions)		
	<u>1989</u>	<u>1990</u>	<u>%Chg</u>	<u>1989</u>	<u>1990</u>	<u>%Chg</u>
PRIVATE SECTOR	443.6	435.3	-1.9	733.1	715.5	-2.4
Agriculture (01-09)	5.5	5.6	1.8	8.1	8.1	0.0
Construction (15-17)	32.8	28.6	-12.8	58.9	49.4	-15.6
Manufacturing (20-39)	105.5	101.9	-3.4	204.4	194.6	-4.8
Transportation (40-49)	21.1	21.5	1.9	41.7	42.2	1.2
Wholesale Trade (50-51)	26.0	25.1	-3.5	50.1	47.0	-6.2
Retail Trade (52-59)	111.6	108.4	-2.9	159.7	154.4	-3.3
Finance (60-67)	25.3	25.1	-0.8	42.4	44.0	3.8
Services (70-89)	115.7	118.9	2.8	167.0	173.1	3.7

Source of Employment Data: Maine Department of Labor, Bureau of Employment Security, Division of Economic Analysis and Research.

Construction, Manufacturing, and Retail Trade industries experienced decreases in both employment and lost workday incidence rates while the Transportation industry and Finance, Insurance & Real Estate industry had significant increases in lost workday incidence rates but little change in employment in 1990. The Private Sector, as a whole, showed a similar overall change in both the employment (-1.9 percent) and the lost workday incidence rate (-2.3 percent).

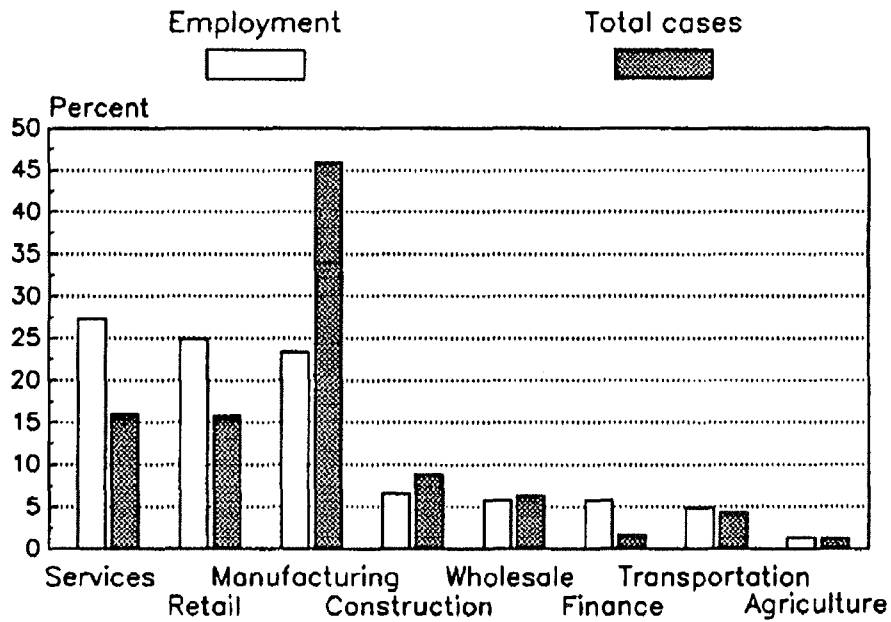
Text Table G: Distribution of Employment, Total Cases, Injuries and Illnesses,
by Industry Division, Maine, 1990

<u>Industry (SIC)</u>	<u>Percent Distribution</u>			
	<u>Published Employment</u>	<u>Total Cases</u>	<u>Total Injuries</u>	<u>Total Illnesses</u>
PRIVATE SECTOR	100.0	100.0	100.0	100.0
Agriculture (01-02)	1.3	1.2	1.2	0.8
Construction (15-17)	6.6	8.8	9.6	1.8
Manufacturing (20-39)	23.4	45.9	42.8	73.7
Transportation (40-49)	4.9	4.3	4.7	0.8
Wholesale Trade (50-51)	5.8	6.3	6.8	1.5
Retail Trade (52-59)	24.9	15.8	16.4	11.3
Finance (60-67)	5.8	1.7	1.4	3.8
Services (70-89)	27.3	16.0	17.1	6.3

Source of Employment Data: Maine Department of Labor, Bureau of Employment Security, Division of Economic Analysis and Research.

Figure 6 illustrates the percentage of the private sector employment and total cases by Major Industry Groupings during 1990. Manufacturing and Construction, two inherently hazardous industries, have higher percentages of total cases than they do employment.

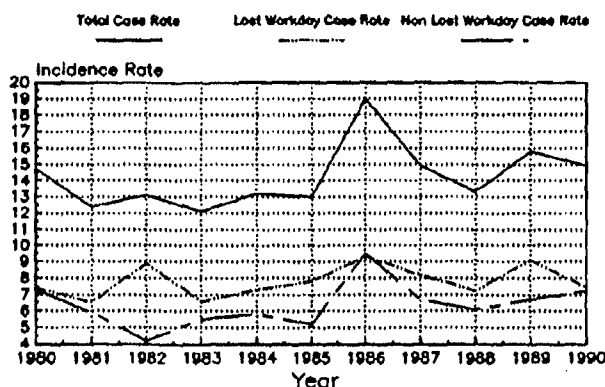
Figure 8. Percent Distribution of Employment and Total Cases, by Division
Maine 1990



Agriculture, Forestry, and Fishing

The occupational injury and illness rate for the Agriculture, Forestry, and Fishing industry was 14.9 in 1990, a decrease of 6.0 percent over the 1989 rate of 15.8. The industry experienced a lost workday case rate of 7.4 per 100 full-time workers and a rate of 7.2 for cases without lost workdays. These are increases of 18.7 percent and 7.5 percent over 1989, respectively. The lost workday rate decreased 17.6 percent to 180.4 after an increase in 1989.

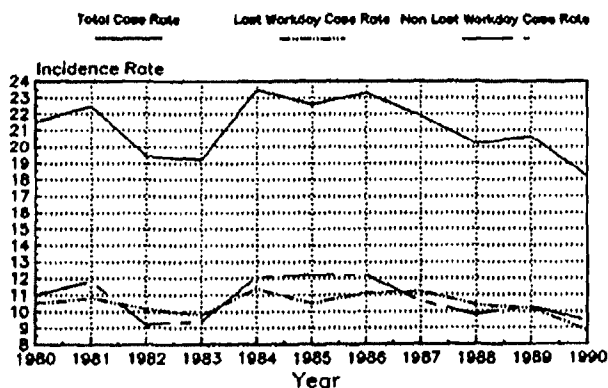
Figure 9. Eleven-year History of the Agriculture, Forestry, and Fishing Industry
Maine 1980-1990



Construction

The Construction industry had the second highest total case incidence rate of the major industry divisions, behind manufacturing, with a rate of 18.2 per 100 full-time workers. This 1990 rate was 11.7 percent lower than the 1989 rate of 20.6. This industry, however, had 8.8 percent of the total cases and just 6.6 percent of the employment, a reflection of the hazardous nature of the work. The lost workday incidence rate increased 0.5 percent in 1990 to 220.0 after an all-time high of 218.9 in 1989.

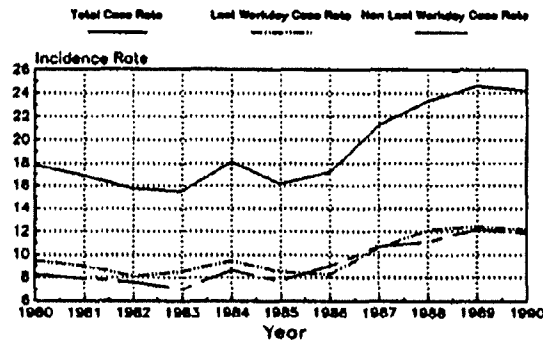
Figure 10. Eleven-year History of the Construction Industry
Maine 1980-1990



Manufacturing

Maine's Manufacturing industry's total case incidence rate decreased in 1990 for the first time in six years to 24.2 per 100 full-time workers. However, this industry had the highest rates in each of the four major categories: total cases; lost workday cases; non lost workday cases; and lost workdays. This industry accounted for 45.9 percent of the total cases in the survey but only 23.4 percent of the employment. Of the publishable rates for private sector industries, Transportation Equipment; Stone, Clay, Glass, and Concrete; and Food and Kindred Products experienced the highest total case incidence rates in this group with 61.8, 27.3, and 25.2, respectively.

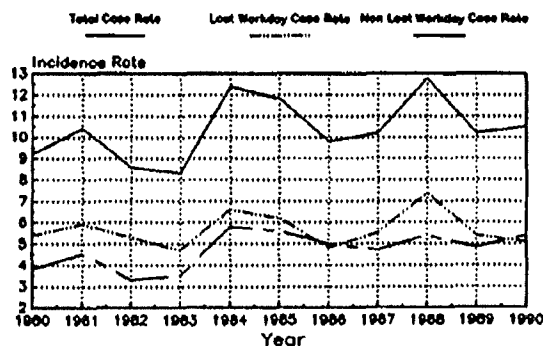
Figure 11. Eleven-year History of the Manufacturing Industry
Maine 1980-1990



Transportation & Public Utilities

The Transportation and Public Utilities industry, remained relatively steady in 1990 with a total case incidence rate of 10.5 compared with 10.2 for 1989. Of the publishable industries the highest rate was in Motor Freight Transportation and Warehousing with a rate of 14.3. The lowest was in Communications with a rate of 6.8. This industry, however, experienced its highest lost workday incidence rate in 1990 with a rate of 198.7 lost workdays per 100 full-time workers. This is an increase of only 6.9 percent over 1988 but an increase of 60.2 percent over 1989 when a seven year low of 124.0 was recorded in this industry.

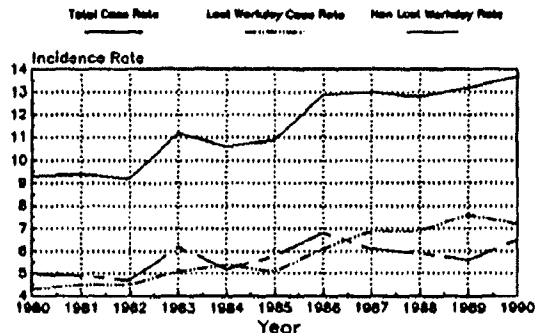
Figure 12. Eleven-Year History of the
Transportation & Public Utilities Industry
Maine 1980-1990



Wholesale Trade

The Wholesale Trade industry recorded an all-time high total case incidence rate with 13.7 per 100 full-time workers which is an increase of 3.8 percent over 1989. However, the lost workday case rate dropped slightly in 1990 to 7.2 from 7.6 in 1989, the second highest rate recorded in this industry's history.

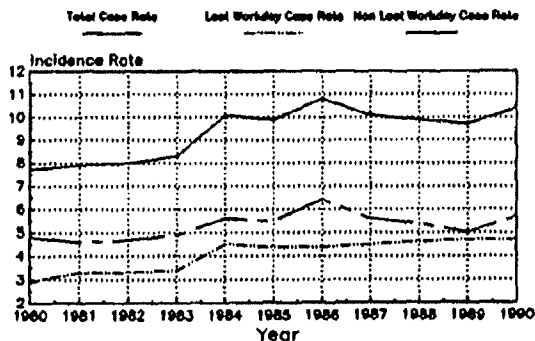
Figure 13. Eleven-year History of the Wholesale Industry
Maine 1980-1990



Retail Trade

The Retail Trade industry's total case incidence rate increased 7.2 percent in 1990 to 10.4 per 100 full-time workers. The lost workday case incidence rate remained relatively steady at 4.7 per 100 full-time workers. The incidence rates for the four major categories, total cases, lost workday cases, non-lost workday cases, and lost workdays has been relatively steady since 1984 as can be seen in Figure 12. General Merchandise Stores had the highest total case incidence rate with 14.8 cases per 100 full-time workers. Home Furniture, Furnishings, and Equipment Stores had the lowest rate with 4.5. Food Stores and Eating and Drinking Places are the two industries with the greatest employment in the retail division. Food Stores had the second highest incidence rate with 14.4, and Eating and Drinking Places had an incidence rate of 8.2 injuries and illnesses per 100 full-time workers.

Figure 14. Eleven-year History of the Retail Industry
Maine 1980-1990

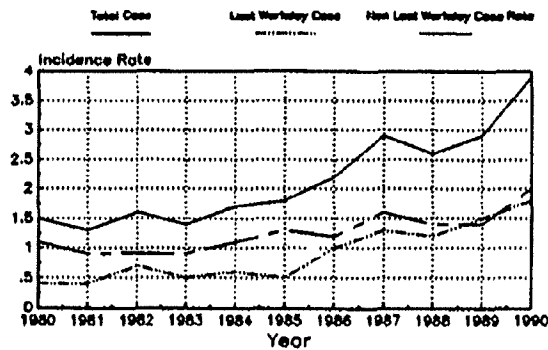


Finance, Insurance & Real Estate

This industry has the lowest incidence rates in the survey. This can be attributed to relatively fewer hazards present in this industry than in others. However, this industry showed increases in all four major categories of incidence rates. The total case incidence rate, increased from 2.9 in 1989 to 3.9 in 1990 for an increase of 34.5 percent. The incidence rate for lost workday cases increased from 1.5 to 1.8 per 100 full-time workers.

Figure 15.

Eleven-year History of the
Finance, Insurance & Real Estate Industry
Maine 1980-1990

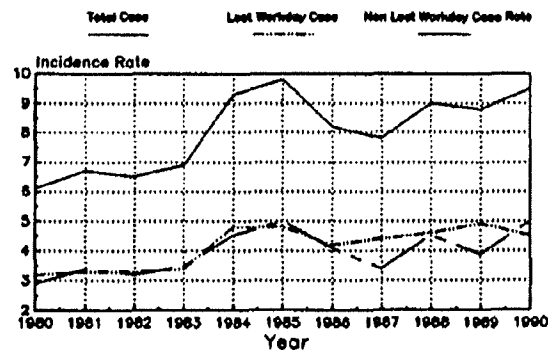


Services

The total case incidence rate for the Services industry jumped from 8.8 in 1989 to 9.5 in 1990. However, the lost workday case rate and the lost workday rate each decreased 8.2 percent (4.5 per 100 full-time workers) and 3.8 percent (98.1 per 100 full-time workers), respectively. The increase in the non lost workday case rate was responsible for the overall increase in this industries incidence rate. Of the publishable industries, the highest total case incidence rates were in Health Services; Automotive Repair, Services, and Parking; and Social Services with rates of 13.5, 11.4, and 9.7 per 100 full-time workers, respectively.

Figure 16.

Eleven-year History of the Services Industry
Maine 1980-1990



ANALYSIS OF MAJOR INDUSTRY GROUPS

In 1990, there were 48 Major Industry Groups (identified by two-digit SIC codes; see Glossary) for which incidence rates were publishable. Of these, 20 groups recorded higher total case incidence rates in 1990 than in 1989, while 20 groups experienced declining rates. There were 8 groups in which incidence rates were not publishable in 1989.

Of these 48 publishable industry groups, Transportation Equipment (SIC 37) experienced the private sector's highest total case incidence rate, 61.8 injuries and illnesses per 100 workers, or about 3 cases for every 5 full-time workers. The lowest total case rate was for Transportation Services (SIC 47), with 1.8 cases per 100 workers. Expressed differently, the total case incidence rate of the most hazardous industry group was about 34 times greater than that of the least hazardous group. Clearly, a difference exists in the safety experience among various groups, a difference often affected by the hazards encountered in different industries.

In 1990, there were 18 publishable industry groups which had total case incidence rates greater than the all-industry average (in 1989 there were also 18 above average groups out of the 41 publishable groups). Major changes include Heavy Construction Contractors (SIC 16) which moved down from fourth place in 1989 to twelfth; Textile Mill (SIC 22) Products which moved from seventh to eleventh place; and Rubber and Plastic Products (SIC 30) which moved down from second to fifth place in the rankings.

The majority of the 18 groups with above average total case rates are from the Construction and Manufacturing industries since these two groups are typically the most hazardous. These 18 groups accounted for nearly 35 percent of the 1990 total private sector employment, but they experienced 60 percent of all recordable cases.

Text Table H: Total Case Incidence Rates for Industry Groups that Exceed the All-Industry Rate, Maine, 1990

INDUSTRY	SIC	Rank		Total Cases		Total Lost Workday Cases		Total Lost Workdays	
		1989	1990	1989	1990	1989	1990	1989	1990
PRIVATE SECTOR, ALL IND.	01-89	-	-	14.5	14.3	7.4	7.0	177.6	173.6
Transportation Equipment	37	*	1	*	61.8	*	31.4	*	805.9
Stone, Clay, Glass & Concrete	32	1	2	27.1	27.3	10.8	12.2	210.0	214.9
Food & Kindred Products	20	5	3	23.6	25.2	13.8	13.4	298.4	265.9
Leather & Leather Products	31	3	4	25.6	22.6	11.9	11.5	309.5	292.9
Rubber & Plastic Products	30	2	5	26.7	22.2	14.3	10.9	334.2	289.3
Lumber & Wood Products	24	6	6	22.8	21.9	13.3	11.9	317.4	300.0
Fabricated Metal Products	34	10	7	19.9	20.7	12.1	10.8	197.6	247.0
Agricultural Production	01-02	12	8	18.3	20.1	10.2	10.7	301.0	241.1
General Building Contractors	15	8	9	21.6	19.7	10.5	10.4	193.0	237.0
Paper & Allied Products	26	13	10	18.1	19.1	8.6	8.5	314.7	286.0
Textile Mill Products	22	7	11	22.2	18.0	10.2	8.9	277.3	269.1
Heavy Construction Contractors	16	4	12	23.9	17.9	10.7	8.2	208.1	250.4
Special Trade Contractors	17	11	13	18.8	17.5	9.9	8.1	323.8	201.1
Apparel & Textile Products	23	14	14	16.5	16.6	7.3	6.9	266.1	132.0
Wholesale-Nondurable Goods	51	16	15	16.0	15.3	9.6	8.8	202.4	192.2
General Merchandise Stores	53	*	16	*	14.8	*	6.6	*	145.6
Agricultural Services	07	15	17	16.0	14.5	9.3	6.8	207.1	131.7
Food Stores	54	*	18	*	14.4	*	9.3	*	201.2

Note: * Represents those Industry Groups whose 1989 results rate did not exceed the all-industry rate.

Considering injuries alone, there were 19 groups whose 1990 total injury case rates exceeded the private sector rate. Of these, seven of these groups had rates that were at least 50 percent higher than the all-industry injury incidence rate, and two groups were at least 75 percent higher than the all-industry rate.

Text Table I: Injury Incidence Rates for Industry Groups that Exceed the All-Industry Rate, Maine, 1990

	<u>SIC</u>	<u>Incidence Rate</u>
PRIVATE SECTOR, ALL INDUSTRIES	01-89	12.8
<u>Industry</u>		<u>Percent above all Industry Rate</u>
1. Transportation Equipment	37	50.1
2. Stone, Clay, Glass, & Concrete Prod	32	26.8
3. Rubber & Plastic Products	30	22.2
4. Food & Kindred Products	20	20.4
5. Lumber & Wood Products	24	20.9
6. Agricultural Production	01-02	19.8
7. General Building Contractors	15	19.2
8. Fabricated Metal Products	34	17.8
9. Heavy Construction Contractors	16	17.7
10. Special Trade Contractors	17	17.1
11. Paper & Allied Products	26	16.8
12. Textile Mill Products	22	16.3
13. Leather & Leather Products	31	16.0
14. General Merchandise Stores	53	14.8
15. Wholesale Trade-Nondurable Goods	51	14.8
16. Apparel Finished Products	23	14.0
17. Motor Freight Transport. & Warehousing	42	14.0
18. Agricultural Services	07	13.2
19. Health Services	80	12.9

As shown in Text Table J, 15 industry groups recorded total case incidence rates for occupational illnesses that exceeded the all-industry rate. The most hazardous group in terms of illnesses was the Transportation Equipment Group with a rate more than eight times higher than the private sector rate. Diseases due to repeated trauma (e.g., tendonitis, carpal tunnel syndrome) accounted for 50.1 percent of the illnesses in this industry. Behind the Transportation Equipment Group, was the Leather and Leather Products Group which experienced a total illness incidence rate of 6.6 with 72.6 percent of the illnesses due to repeated trauma.

Text Table J: Illness Incidence Rates for Industry Groups that Exceed the All-Industry Rate, Maine, 1990

<u>Industry</u>	<u>SIC</u>	<u>Total Cases</u>
PRIVATE SECTOR, ALL INDUSTRIES	01-89	1.4
1. Transportation Equipment	37	11.7
2. Leather & Leather Products	31	6.6
3. Food & Kindred Products	20	4.0
4. Electrical Equipment & Supplies	36	3.1
5. Measuring, & Controlling Instruments	38	3.1
6. Fabricated Metal Products	34	2.9
7. Apparel & Other Textile Products	23	2.6
8. Paper & Allied Products	26	2.3
9. Food Stores	54	2.2
10. Printing, Publishing & Allied Industries	27	2.0
11. Miscellaneous Retail	59	1.9
12. Rubber & Plastic Products	30	1.8
13. Insurance Carriers	63	1.7
14. Textile Mill Products	22	1.7
15. Ind. & Comm. Machinery & Computer Equip.	35	1.5

INCIDENCE RATES BY COMPANY SIZE

The incidence rates for different size firms vary. Generally, small firms with one to 10 employees have a low total case incidence rate, while firms with 50 or more employees have higher incidence rates. In 1990, companies with 1000 or more employees had the highest total case incidence rate of the size class groupings with a rate of 28.3 cases per 100 full-time workers. The incidence rate for Maine's smallest employers dropped 45.9 percent in 1990 after an increase of over 200 percent in 1989. Incidence rates also fell for employers with between 11 and 19 employees and 50 and 99 employees.

Text Table K: Total Case Incidence Rate by Size Class, Maine, 1989-1990

<u>Number of Employees</u>	<u>Incidence Rate</u>		
	<u>1989</u>	<u>1990</u>	<u>%Chg</u>
ALL SIZES	14.5	14.3	1.4
1-3	8.5	4.6	-45.9
4-10	4.6	5.0	8.7
11-19	8.9	8.6	-3.4
20-49	11.5	11.6	0.9
50-99	16.7	15.9	-4.8
100-249	18.3	18.3	0.0
250-499	16.6	16.7	0.6
500-999	15.0	15.2	1.3
1000+	27.0	28.3	4.8

MAINE COMPARED TO THE UNITED STATES

In 1990, the total case incidence rate (unadjusted) in Maine was over 63 percent higher than in the United States as a whole (14.3 versus 8.8). Similarly, the lost workday case rate was 71 percent higher, and the incidence rate for lost workdays was 107 percent higher. In every year since the survey began, Maine's rates have exceeded the comparable national rates.

Text Table L: Total Case Incidence Rates by Case Type, Maine and the United States, 1972-1990.

Survey Year	Total Cases				Lost Workday Cases				Lost Workdays			
	Maine		United States		Maine		United States		Maine		United States	
	Incidence Rate	Percent Change	Incidence Rate	Percent Change	Incidence Rate	Percent Change	Incidence Rate	Percent Change	Incidence Rate	Percent Change	Incidence Rate	Percent Change
1972	11.3		10.9		3.9		3.3		57.6		47.9	
1973	11.4	0.9	11.0	0.9	4.1	5.1	3.4	3.0	71.8	24.7	53.3	11.3
1974	10.9	-4.4	10.4	-5.5	4.1	0.0	3.5	2.9	70.1	-2.4	54.6	2.4
1975	10.3	-5.5	9.1	-12.5	4.2	2.4	3.3	-5.7	77.6	10.7	56.1	2.7
1976	10.4	1.0	9.2	1.1	4.5	7.1	3.5	6.1	79.2	2.1	60.5	7.8
1977	10.4	0.0	9.3	1.1	4.8	6.7	3.8	8.6	87.7	10.7	61.6	1.8
1978	11.7	12.5	9.4	1.1	5.5	14.6	4.1	7.9	96.0	9.5	63.5	3.1
1979	12.1	3.4	9.5	1.1	6.2	12.7	4.3	4.9	104.2	8.5	67.7	6.6
1980	12.0	-0.8	8.7	-8.4	6.1	-1.6	4.0	-7.0	113.7	9.1	65.2	-3.7
1981	11.9	-0.8	8.3	-4.6	6.0	-1.6	3.8	-5.0	112.5	-1.1	61.7	-5.4
1982	10.9	-8.4	7.7	-7.2	5.5	-8.3	3.5	-7.9	114.0	1.3	58.7	-4.9
1983	11.0	0.9	7.6	-1.3	5.6	1.8	3.4	-2.9	110.1	-3.4	58.5	0.3
1984	13.2	20.0	8.0	5.3	6.7	19.6	3.7	8.8	139.4	26.6	63.4	8.4
1985	12.5	-5.3	7.9	-1.3	6.2	-7.5	3.6	-2.7	136.6	-2.0	64.9	2.4
1986	12.9	3.2	7.9	unch.	6.0	-3.2	3.6	unch.	128.2	6.1	65.8	1.4
1987	13.7	6.2	8.3	5.0	6.9	15.0	3.8	5.5	154.8	20.7	69.9	6.2
1988	14.4	5.1	8.6	3.6	7.4	7.2	4.0	5.3	167.9	8.5	76.1	8.9
1989	14.5	1.4	8.6	unch.	7.4	1.4	4.0	unch.	177.6	5.8	78.7	3.4
1990	14.3	-1.4	8.8	2.3	7.0	-5.4	4.1	2.5	173.6	-2.3	84.0	6.7

Why are Maine's incidence rates so much higher? One possible reason that can be quantitatively examined is the industry mix (the distribution of total employment in various industries). Obviously, if Maine's private sector has a higher proportion of employment in more hazardous industries than the nation as a whole, the all-industry incidence rate for Maine would be correspondingly greater. One can investigate this possibility by using the Standard Industry Mix (SIM) which permits comparisons between states or between a state and the nation. Briefly, the SIM bases the injury and illness experience of one area (Maine, in this case) on the industry mix of the area to which it is being compared (the United States). A more complete explanation can be found in Appendix A.

The disparity between Maine's rates and national rates exists at the industry division level. In 1990, all of the industry divisions except Transportation & Public Utilities experienced higher adjusted incidence rates in Maine than in the nation as a whole. The discrepancy was highest in Manufacturing and in Wholesale Trade where Maine's adjusted total case rates exceeded the national rates by nearly 81 percent and 60 percent respectively.

Adjusting for the Standard Industry Mix has the effect of reducing Maine's total case rate by nearly 8.3 percent. The rate for lost workday cases decreases by about 9.4 percent and the rate for lost workdays by about 9.9 percent. Although adjusting Maine's division level rates acts to bring them closer to the national rates, the adjusted rates still exceed the corresponding national rates.

Text Table M: Total Case Incidence Rates adjusted to the U.S. Industry Mix, by Industry Division, 1990

Industry (SIC)	Injuries and Illnesses per 100 Workers								
	Total Cases			Lost Workday Cases			Lost Workdays		
	Maine Unadj.	Maine Adjusted	U.S.	Maine Unadj.	Maine Adjusted	U.S.	Maine Unadj.	Maine Adjusted	U.S.
PRIVATE SECTOR (01-89)	14.3	13.2	8.8	7.0	6.4	4.1	173.6	157.9	84.0
Construction (15-17)	18.2	18.1	14.2	8.8	8.7	6.7	220.0	217.6	147.9
Manufacturing (20-39)	24.2	21.1	13.2	12.2	10.8	5.8	314.4	249.7	120.7
Transportation (40-49)	10.5	9.6	9.6	5.1	4.7	5.5	198.7	169.8	134.1
Wholesale Trade (50-51)	13.7	13.4	7.4	7.2	6.9	3.7	155.4	148.2	71.5
Retail Trade (52-59)	10.4	10.5	8.1	4.7	4.8	3.4	100.1	97.0	63.2
Finance (60-67)	3.9	3.7	2.4	1.8	1.8	1.1	52.6	48.5	27.3
Services (70-89)	9.5	8.7	6.0	4.5	4.0	2.8	98.1	96.0	56.4

TABLE 1

Incidence Rates of Recordable Occupational Injuries and Illnesses by Type and Industry, Maine, 1990

<u>INDUSTRY</u> ¹	SIC ²	<u>INCIDENCE RATES</u> ³						
		Total ⁴ Cases	Total Lost Workday Cases	Cases With Days Away From Work	Days Away From Work	Days of Restricted Work Activity	Total Lost Workdays	Nonfatal Cases w/o Lost Workdays
PRIVATE SECTOR, ALL INDUSTRIES	01-89	14.3	7.0	5.2	119.7	53.9	173.6	7.3
AGRICULTURE, FORESTRY, AND FISHING	01-09	14.9	7.4	7.2	162.8	17.6	180.4	7.2
AGRICULTURAL SERVICES	07	14.5	6.8	6.4	114.0	17.7	131.7	7.2
AGRICULTURAL PRODUCTION	01-02	20.1	10.7	10.7	215.9	25.2	241.1	9.3
CONTRACT CONSTRUCTION	15-17	18.2	8.8	8.1	201.8	18.2	220.0	9.4
GENERAL BUILDING CONTRACTORS	15	19.7	10.4	9.3	215.8	21.2	237.0	9.3
General Contractors - Residential	152	14.8	8.5	8.1	126.6	10.8	137.4	6.2
General Contractors - Nonresidential	154	26.2	12.8	10.9	329.1	34.7	363.8	13.4
HEAVY CONSTRUCTION CONTRACTORS	16	17.9	8.2	7.0	216.7	33.7	250.4	9.7
Highway and Street Construction	161	19.7	7.5	7.0	173.8	29.0	202.8	12.2
Heavy Construction, ex Highway and Street	162	16.1	9.0	6.9	259.9	38.5	298.4	7.2
SPECIAL TRADE CONTRACTORS	17	17.5	8.1	7.6	189.1	12.0	201.1	9.4
Plumbing, Heating, Air Conditioning	171	21.4	9.2	8.6	199.0	10.1	209.1	12.2
Electrical Work	173	12.6	5.6	5.1	139.9	11.4	151.3	7.1
Masonry, Stonework, Tile Setting, Plastering	174	21.4	12.7	12.2	320.6	13.1	333.6	8.7
Miscellaneous Special Trade Contractor	179	17.0	7.7	7.2	227.7	15.5	243.2	9.3
MANUFACTURING	20-39	24.2	12.2	7.2	175.0	139.3	314.4	11.9
FOOD AND KINDRED PRODUCTS	20	25.2	13.4	10.3	180.3	85.7	265.9	11.8
Miscellaneous Food and Kindred Products	209	32.9	19.5	12.3	169.2	77.4	246.6	13.4
TEXTILE MILL PRODUCTS	22	18.0	8.9	6.3	202.7	66.4	269.1	9.1
Broadwoven Fabric Mills, Wool	223	14.8	6.4	4.1	123.8	40.6	164.4	8.4
Broadwoven Fabric Mills, Wool	2231	14.8	6.4	4.1	123.8	40.6	164.4	8.4
APPAREL AND TEXTILE PRODUCTS	23	16.6	6.9	4.6	70.0	62.0	132.0	9.7
LUMBER AND WOOD PRODUCTS	24	21.9	11.9	9.6	223.9	76.1	300.0	9.9
Logging Camps and Contractors	241	20.1	13.6	13.0	332.2	15.6	347.8	6.4
Sawmills and Planing Mills	242	21.4	11.1	9.3	177.6	54.6	232.2	10.2
Sawmills and Planing Mills, General	2421	21.8	10.8	9.4	180.8	50.3	231.1	11.0
Miscellaneous Wood Products	249	22.2	12.0	8.0	200.7	149.3	350.1	10.2
Wood Products, NEC	2499	22.9	12.3	8.4	204.2	168.5	372.7	10.6
PAPER AND ALLIED PRODUCTS	26	19.1	8.5	4.5	156.7	129.3	286.0	10.6
Paper Mills, Except Building Paper	262	19.9	8.7	4.7	153.8	129.6	283.3	11.2
Pulp Mills	2621	19.9	8.7	4.7	153.8	129.6	283.3	11.2
PRINTING AND PUBLISHING	27	7.7	5.0	4.0	57.4	51.9	109.3	2.7
Newspapers	271	7.5	3.4	3.2	48.5	12.9	61.4	4.1
Publishing or Publishing & Printing	2711	7.5	3.4	3.2	48.4	12.9	61.4	4.1
Commercial Printing	275	12.8	8.1	4.8	67.0	50.6	117.6	4.7
Commercial Printing, Lithography	2752	15.9	10.1	6.0	83.7	63.2	146.9	5.8
RUBBER AND PLASTIC PRODUCTS	30	22.2	10.9	8.7	214.2	75.1	289.3	11.3
Miscellaneous Plastic Products	308	17.3	9.1	7.2	211.2	62.8	273.9	8.2
LEATHER AND LEATHER PRODUCTS	31	22.6	11.5	8.1	185.2	107.7	292.9	11.1
Footwear, Except Rubber	314	19.3	10.1	7.0	169.7	95.3	264.9	9.3
Men's Footwear, except Athletic	3143	16.4	8.8	6.1	142.8	52.0	194.9	7.6
Women's Footwear, except Athletic	3144	19.4	10.9	6.8	126.6	125.5	252.1	8.5
STONE, GLASS, CLAY, CONCRETE	32	27.3	12.2	9.7	172.8	42.1	214.9	14.8

TABLE 1 (Continued)

Incidence Rates of Recordable Occupational Injuries and Illnesses by Type and Industry, Maine, 1990

INDUSTRY ¹	SIC ²	INCIDENCE RATES ³						
		Total ⁴ Cases	Total Lost Workday Cases	Cases With Days Away From Work	Days Away From Work	Day of Restricted Work Activity	Total Lost Workdays	Nonfatal Cases w/o Lost Workdays
MANUFACTURING (Continued)								
FABRICATED METAL PRODUCTS	34	20.7	10.8	8.2	200.1	46.9	247.0	9.9
MACHINERY, EXCEPT ELECTRICAL	35	14.2	6.7	5.1	109.6	39.1	148.7	7.5
Misc. Industrial and Commercial Machinery	359	16.7	7.3	4.9	73.7	29.6	103.3	9.4
ELECTRICAL EQUIPMENT AND SUPPLIES	36	9.2	5.3	2.8	77.6	56.9	134.5	3.8
Electronic Components and Accessories	367	5.9	3.4	2.5	63.5	21.0	84.5	2.5
Semiconductors and Related Devices	3674	5.2	2.9	2.3	58.9	22.6	81.5	2.2
TRANSPORTATION EQUIPMENT	37	61.8	31.4	12.7	317.3	488.6	805.9	30.4
Aircraft and Parts	372	16.1	3.7	3.6	38.0	1.6	39.6	12.4
Aircraft Engines and Engine Parts	3724	16.6	3.9	3.8	39.3	1.7	40.9	12.8
Ship, Boat Building and Repairing	373	74.9	38.5	15.1	389.7	623.1	1,012.8	36.1
Ship Building and Repairing	3731	78.2	41.2	15.9	418.4	672.6	1,091.0	37.0
MEASURING, ANALYZING INSTRUMENTS	38	11.4	4.8	4.8	65.5	21.4	86.9	6.6
TRANSPORTATION AND PUBLIC UTILITIES	40-49	10.5	5.1	4.5	170.2	28.5	198.7	5.4
LOCAL, SUBURBAN, INTERURBAN TRANS.	41	7.1	3.0	3.0	37.4	0.0	37.4	4.1
TRUCKING AND WAREHOUSING	42	14.3	8.9	8.5	388.4	40.6	429.0	5.4
Trucking, Local and Long Distance	421	13.9	8.7	8.3	389.8	40.8	430.6	5.1
COMMUNICATIONS	48	6.8	2.2	1.2	14.3	37.5	51.8	4.5
ELECTRIC, GAS, AND SANITARY SERVICES	49	8.9	2.9	2.3	75.1	19.5	94.6	6.1
Electric Services	491	6.6	2.0	1.8	33.7	19.2	52.9	4.6
WHOLESALE AND RETAIL TRADE	50-59	11.1	5.3	4.6	88.1	24.8	112.9	5.9
WHOLESALE TRADE	50-51	13.7	7.2	6.0	118.5	36.9	155.4	6.5
WHOLESALE TRADE - DURABLE GOODS	50	12.0	5.5	4.6	97.0	20.0	117.0	6.5
Professional and Commercial Equip.	504	6.7	2.7	1.6	52.6	8.3	60.9	4.0
Hardware, Plumbing, Heating Equipment	507	17.1	6.9	5.5	198.8	67.2	266.0	10.2
Machinery, Equipment, and Supplies	508	9.0	3.7	3.7	70.5	2.0	72.5	5.4
WHOLESALE - NONDURABLE GOODS	51	15.3	8.8	7.5	139.1	53.1	192.2	6.5
Groceries and Related Products	514	18.2	9.9	8.3	182.3	65.6	247.9	8.2
RETAIL TRADE	52-59	10.4	4.7	4.2	79.0	21.1	100.1	5.7
BUILDING HARDWARE AND GARDEN SUPP.	52	10.9	5.3	4.8	91.4	22.6	114.0	5.6
Lumber and Other Building Material Dealers	521	15.4	6.9	6.1	117.5	34.5	152.0	8.5
GENERAL MERCHANDISE STORES	53	14.8	6.6	6.2	129.2	16.5	145.6	8.3
Department Stores	531	18.0	7.3	7.0	154.7	20.3	175.0	10.6
FOOD STORES	54	14.4	9.3	7.8	132.8	68.4	201.2	5.0
Grocery Stores	541	15.6	10.2	8.5	144.7	74.6	219.3	5.4
AUTO DEALERS AND SERVICE STATIONS	55	9.5	3.7	3.4	107.2	15.7	122.9	5.8
New and Used Car Dealers	551	10.3	3.7	3.5	78.3	14.2	92.6	6.6
APPAREL AND ACCESSORY STORES	56	12.4	4.5	4.4	101.0	1.1	102.1	7.9
FURNITURE AND HOME FURN. STORES	57	4.5	2.4	2.4	103.7	0.7	104.4	2.1
Furniture, Home Furnishings	571	6.6	2.9	2.9	168.1	1.3	169.4	3.7

TABLE 1 (Continued)

Incidence Rates of Recordable Occupational Injuries and Illnesses by Type and Industry, Maine, 1990

INDUSTRY¹	SIC²	INCIDENCE RATES³						
		Total⁴ Cases	Total Lost Workday Cases	Cases With Days Away From Work	Days Away From Work	Days of Restricted Work Activity	Total Lost Workdays	Nonfatal Cases w/o Lost workdays
RETAIL TRADE (Continued)								
EATING AND DRINKING PLACES	58	8.2	3.5	3.0	25.8	5.1	31.0	4.7
MISCELLANEOUS RETAIL STORES	59	8.7	2.4	2.1	40.3	15.3	55.6	6.3
Drug Stores	591	3.5	1.9	1.9	12.7	0.0	12.7	1.6
Miscellaneous Shopping Stores	594	10.8	2.5	2.1	59.9	30.3	90.2	8.2
FINANCE, INSURANCE, AND REAL ESTATE 60-67								
BANKING	60	2.9	1.4	0.9	25.8	15.3	41.1	1.5
Commercial and Stock Savings Banks	602	3.5	2.6	1.6	48.6	29.3	77.9	0.9
INSURANCE	63	5.9	2.4	2.2	79.8	18.0	97.8	3.5
INSURANCE AGENTS BROKERS AND SERV.	64	2.6	0.9	0.6	13.4	4.9	18.3	1.8
REAL ESTATE	65	5.9	3.9	3.7	41.6	18.2	59.8	2.0
SERVICES 70-89								
HOTELS AND OTHER LODGING PLACES	70	9.1	4.1	3.8	64.6	9.9	74.5	5.0
Hotels, Tourist Courts, and Motels	701	6.7	3.3	3.1	65.3	10.7	76.0	3.4
PERSONAL SERVICES	72	3.4	2.2	2.0	85.1	13.4	98.5	1.2
BUSINESS SERVICES	73	7.5	3.6	3.4	128.4	18.5	146.9	3.9
AUTO REPAIR SERVICES AND PARKING	75	11.4	5.3	4.0	31.2	14.4	45.6	6.1
AMUSEMENT AND RECREATION SERVICES	79	7.9	5.7	5.5	169.5	30.3	199.8	2.1
MEDICAL AND HEALTH SERVICES	80	13.5	6.9	5.7	105.4	31.1	136.5	6.6
Nursing and Personal Care Facilities	805	21.6	14.1	11.4	211.4	77.3	288.7	7.5
Hospitals	806	12.8	5.3	4.5	81.5	21.5	103.0	7.5
LEGAL SERVICES	81	5.6	0.3	0.3	2.8	0.0	2.8	5.3
EDUCATIONAL SERVICES	82	8.8	3.4	2.7	28.7	14.3	43.0	5.4
SOCIAL SERVICES	83	9.7	3.2	2.4	42.7	20.0	62.8	6.5
MEMBERSHIP ORGANIZATIONS	86	3.1	1.2	1.2	9.7	0.8	10.5	1.9
ENGINEERING, ACCT., RESEARCH SERV.	87	3.1	1.2	1.1	11.4	10.5	21.9	1.8

See Footnotes at end of Table 6.

TABLE 2

Incidence Rates of Recordable Occupational Injuries by Type and Industry, Maine, 1990

INDUSTRY ¹	SIC ²	INCIDENCE RATES ³						
		Total ⁴ Cases	Total Lost Workday Cases	Cases With Days Away From Work	Days Away From Work	Days of Restricted Work Activity	Total Lost Workdays	Nonfatal Cases w/o Lost Workdays
PRIVATE SECTOR, ALL INDUSTRIES	01-89	12.9	6.3	4.8	103.8	40.3	144.2	6.5
AGRICULTURE, FORESTRY, AND FISHING	01-09	13.9	7.0	6.8	126.3	17.2	143.5	6.7
AGRICULTURAL SERVICES	07	13.2	6.4	6.1	111.1	17.0	128.1	6.3
AGRICULTURAL PRODUCTION	01-02	19.8	10.6	10.6	213.6	25.2	238.8	9.2
CONTRACT CONSTRUCTION	15-17	17.9	8.6	7.9	183.4	17.3	200.7	9.2
GENERAL BUILDING CONTRACTORS	15	19.2	10.2	9.1	202.8	20.7	223.5	9.0
General Contractors - Residential	152	14.5	8.3	7.9	119.8	9.9	129.7	6.2
General Contractors - Nonresidential	154	25.6	12.7	10.8	307.9	34.7	342.6	12.9
HEAVY CONSTRUCT CONTRACTORS	16	17.7	8.0	6.8	212.0	31.7	243.7	9.7
Highway and Street Construction	161	19.5	7.3	6.8	168.3	27.1	195.4	12.2
Heavy Construction, ex. Highway and Street	162	15.9	8.7	6.8	255.9	36.3	292.2	7.2
SPECIAL TRADE CONTRACTORS	17	17.1	7.8	7.4	163.7	11.1	174.8	9.2
Plumbing, Heating, Air Conditioning	171	21.1	8.9	8.5	194.4	9.9	204.3	12.2
Electrical Work	173	12.0	5.1	4.6	120.8	6.7	127.5	6.9
Miscellaneous Special Trade Contractors	179	16.5	7.5	6.9	153.6	15.5	169.1	9.0
MANUFACTURING	20-39	20.2	10.4	6.2	142.9	99.8	242.4	9.8
FOOD AND KINDRED PRODUCTS	20	21.2	11.3	9.3	160.4	57.5	218.0	9.9
Miscellaneous Food and Kindred Products	209	23.0	14.5	10.5	159.9	54.2	214.1	8.4
TEXTILE MILL PRODUCTS	22	16.3	7.9	5.5	175.8	45.6	221.4	8.4
Broadwoven Fabric Mills, Wool	223	13.0	5.6	3.4	105.0	33.7	138.7	7.4
Broadwoven Fabric Mills, Wool	2231	13.0	5.6	3.4	105.0	33.7	138.7	7.4
APPAREL AND OTHER TEXTILE PRODUCTS	23	14.0	5.0	3.3	35.1	22.8	57.9	9.0
LUMBER AND WOOD PRODUCTS	24	20.9	11.3	9.3	208.7	60.3	269.0	9.9
Logging Camps and Contractors	241	19.9	13.5	12.8	328.2	15.6	343.8	6.4
Sawmills and Planing Mills	242	20.6	10.6	9.0	156.0	49.6	205.6	10.0
Sawmills and Planing Mills, General	2421	21.4	10.5	9.1	156.6	48.1	204.7	10.9
Miscellaneous Wood Products	249	20.5	11.0	7.6	186.0	108.2	294.2	9.4
Wood Products, NEC	2499	21.0	11.2	7.9	186.5	118.9	305.4	9.8
PAPER AND ALLIED PRODUCTS	26	16.8	8.0	4.2	145.2	119.2	264.4	8.9
Paper Mills, Except Building Paper	262	17.5	8.2	4.3	142.4	118.7	261.1	9.3
Pulp Mills	2621	17.5	8.2	4.3	142.4	118.7	261.1	9.3
PRINTING AND PUBLISHING	27	5.7	3.2	2.2	31.9	12.7	44.6	2.6
Newspapers	271	7.0	3.1	2.8	39.0	10.7	49.7	4.0
Publishing or Publishing and Printing	2711	7.0	3.1	2.8	39.0	10.7	49.7	4.0
Commercial Printing	275	12.0	7.6	4.5	66.6	32.5	99.1	4.4
Commercial Printing, Lithography	2752	14.9	9.4	5.7	83.2	40.5	123.7	5.5
RUBBER AND PLASTIC PRODUCTS	30	20.4	9.9	8.0	159.6	59.9	219.5	10.5
Miscellaneous Plastic Products	308	15.1	7.9	6.4	143.7	43.3	187.0	7.2
LEATHER AND LEATHER PRODUCTS	31	16.0	7.9	5.7	117.1	44.8	161.9	8.1
Footwear, Except Rubber	314	13.0	6.7	4.7	96.6	41.3	137.9	6.3
Men's Footwear, except Athletic	3143	12.0	6.6	4.2	80.9	21.5	102.4	5.4
Women's Footwear, except Athletic	3144	13.1	7.0	4.9	87.2	55.6	142.8	6.0

TABLE 2 (Continued)

Incidence Rates of Recordable Occupational Injuries by Type and Industry, Maine, 1990

INDUSTRY¹	SIC²	INCIDENCE RATES³						
		Total⁴ Cases	Total Lost Workday Cases	Cases With Days Away From Work	Days Away From Work	Days of Restricted Work Activity	Total Lost Workdays	Nonfatal Cases w/o Lost Workdays
MANUFACTURING (Continued)								
STONE, GLASS, CLAY, CONCRETE PROD	32	26.8	11.9	9.5	163.8	42.1	205.9	14.6
FABRICATED METAL PRODUCTS	34	17.8	9.4	7.3	155.1	26.4	181.5	8.4
MACHINERY, EXCEPT ELECTRICAL	35	12.6	6.0	4.5	90.4	29.4	119.8	6.6
Misc. Industrial and Commercial Machinery	359	15.1	6.8	4.4	64.9	29.6	94.5	8.3
ELECTRICAL EQUIPMENT AND SUPPLIES	36	6.0	3.6	1.8	28.0	25.6	53.6	2.4
Electronic Components and Accessories	367	3.2	2.0	1.6	19.2	3.8	23.0	1.3
Semiconductors and Related Equipment	3674	2.4	1.3	1.3	19.1	0.9	20.0	1.1
TRANSPORTATION EQUIPMENT	37	50.1	26.5	11.0	262.9	359.7	622.6	23.6
Aircraft and Parts	372	12.4	3.0	2.9	28.5	1.6	30.1	9.3
Aircraft Engines and Engine Parts	3724	12.8	3.1	3.0	29.5	1.7	31.1	9.6
Shp, Boat Building and Repairing	373	60.9	32.6	13.1	322.8	459.5	782.3	28.3
Shp, Building and Repairing	3731	63.3	34.9	13.7	346.1	495.8	841.9	28.4
MEASURING, ANALYZING INSTRUMENTS	38	8.3	3.4	3.4	39.3	4.3	43.6	4.9
TRANSPORTATION AND PUBLIC UTILITIES	40-49	10.3	5.0	4.4	156.5	28.1	184.6	5.3
LOCAL, SUBURBAN, INTERURBAN, TRANS.	41	7.0	3.0	3.0	37.4	0.0	37.4	4.0
TRUCKING AND WAREHOUSING	42	14.0	8.8	8.4	379.2	39.5	418.7	5.3
Trucking, Local and Long Distance	421	13.6	8.7	8.2	380.4	39.7	420.1	5.0
COMMUNICATIONS	48	6.7	2.1	1.1	12.7	37.4	50.1	4.5
ELECTRIC, GAS, AND SANITARY SERV.	49	8.6	2.6	2.1	28.6	19.6	48.2	6.0
Electric Services	491	6.4	1.9	1.8	30.4	19.2	49.6	4.5
WHOLESALE AND RETAIL TRADE	50-59	10.2	4.9	4.2	77.5	20.0	97.5	5.3
WHOLESALE TRADE	50-51	13.4	7.0	5.9	116.3	32.4	148.7	6.4
WHOLESALE TRADE - DURABLE GOODS	50	11.9	5.4	4.5	96.4	17.7	114.1	6.5
Professional and Commercial Equip.	504	6.7	2.7	1.6	52.5	8.4	60.9	4.0
Hardware, Plumbing, Heating Equipment	507	16.9	6.6	5.4	197.8	50.9	248.7	10.2
Machinery, Equipment, and Supplies	508	8.9	3.6	3.5	69.9	1.5	71.4	5.4
WHOLESALE - NONDURABLE GOODS	51	14.8	8.5	7.2	135.4	46.4	181.8	6.3
Groceries and Related Products	514	17.5	9.6	8.0	178.1	59.0	237.1	7.8
RETAIL TRADE	52-59	9.2	4.2	3.7	65.8	16.2	82.0	5.0
BUILDING HARDWARE AND GARDEN SUPP	52	10.6	5.0	4.7	80.9	15.7	96.6	5.5
Lumber and Other Building Material Dealers	521	14.8	6.5	5.9	99.7	22.7	122.4	8.3
GENERAL MERCHANDISE STORES	53	14.8	6.6	6.2	129.2	16.4	145.6	8.3
Department Stores	531	18.0	7.3	7.0	154.7	20.3	175.0	10.6
FOOD STORES	54	12.2	8.1	6.7	91.5	48.2	139.7	4.2
Grocery Stores	541	13.2	8.8	7.4	99.7	52.6	152.3	4.4
AUTO DEALERS AND SERVICE STATIONS	55	9.4	3.6	3.3	93.6	15.7	109.3	5.8
New and Used Car Dealers	551	10.2	3.7	3.5	78.3	14.2	92.6	6.6
Apparel and Accessory Stores	56	12.4	4.5	4.4	101.0	1.1	102.1	7.9
FURNITURE AND HOME FURN. STORES	57	4.5	2.4	2.4	103.7	0.7	104.4	2.1
Furniture, Home Furnishings	571	6.6	2.9	2.9	168.1	1.3	169.4	3.7
EATING AND DRINKING PLACES	58	8.1	3.4	3.0	25.7	5.1	30.8	4.7

TABLE 2 (Continued)

Incidence Rates of Recordable Occupational Injuries by Type and Industry, Maine, 1990

INDUSTRY ¹	SIC ²	INCIDENCE RATES ³						
		Total ⁴ Cases	Total Lost Workday Cases	Cases With Days Away From Work	Days Away From Work	Days of Restricted Work Activity	Total Lost Workdays	Nonfatal Cases w/o Lost Workdays
RETAIL TRADE (Continued)								
MISCELLANEOUS RETAIL STORES	59	6.9	1.9	1.7	26.3	7.0	33.2	5.0
Drug Stores	591	3.5	1.9	1.9	12.7	0.0	12.7	1.6
Miscellaneous Shopping Stores	594	6.5	1.4	1.2	28.2	11.4	39.7	5.1
FINANCE, INSURANCE, AND REAL ESTATE 60-67								
BANKING	60	2.0	0.7	0.7	12.2	3.7	15.9	1.4
Commercial and Stock Savings Banks	602	1.8	1.2	1.2	22.5	7.2	29.7	0.7
INSURANCE	63	4.1	1.3	1.2	40.2	7.0	47.2	2.9
INSURANCE AGENTS, BROKERS AND SERV.	64	2.1	0.7	0.6	13.4	1.9	15.3	1.4
REAL ESTATE	65	5.8	3.9	3.7	41.7	16.9	58.6	1.9
SERVICES 70-89								
HOTELS AND OTHER LODGING PLACES	70	9.0	4.1	3.8	64.6	9.9	74.5	5.0
Hotels, Tourist Courts and Motels	701	6.6	3.3	3.1	65.3	10.7	76.0	3.4
PERSONAL SERVICES	72	3.3	2.1	1.9	83.3	11.1	94.4	1.2
BUSINESS SERVICES	73	7.0	3.2	3.1	122.4	10.2	132.6	3.7
AUTO REPAIR SERVICES AND PARKING	75	11.3	5.3	4.0	31.2	13.7	44.9	6.1
AMUSEMENT AND RECREATION SERVICES	79	7.5	5.5	5.3	166.4	30.3	196.7	2.0
MEDICAL AND HEALTH SERVICES	80	12.9	6.7	5.6	102.2	28.7	130.9	6.2
Nursing and Personal Care Facilities	805	20.9	13.8	11.1	206.3	77.1	283.4	7.1
Hospitals	806	11.8	5.0	4.3	77.6	16.8	94.4	6.9
LEGAL SERVICES	81	5.6	0.3	0.3	2.8	0.0	2.8	5.3
EDUCATIONAL SERVICES	82	8.8	3.4	2.7	28.7	14.3	43.0	5.4
SOCIAL SERVICES	83	9.7	3.2	2.4	42.7	20.0	62.7	6.5
MEMBERSHIP ORGANIZATIONS	86	3.1	1.1	1.1	9.4	0.0	9.4	1.9
ENGINEERING, ACCT., RESEARCH SERV.	87	2.5	0.9	0.9	3.9	2.4	6.1	1.6

See Footnotes at end of Table 6.

TABLE 3

Incidence Rates of Recordable Occupational Illnesses by Type and Industry, Maine, 1990

INDUSTRY ¹	SIC ²	INCIDENCE RATES ³						
		Total ⁴ Cases	Total Lost Workday Cases	Cases With Days Away From Work	Days Away From Work	Days of Restricted Work Activity	Total Lost Workdays	Nonfatal Cases w/o Lost Workdays
PRIVATE SECTOR, ALL INDUSTRIES	01-89	1.5	0.7	0.4	15.9	13.5	29.4	0.8
AGRICULTURE, FORESTRY, AND FISHING	01-09	1.0	0.4	0.3	36.4	0.4	36.8	0.6
AGRICULTURAL SERVICES	07	1.3	0.4	0.3	2.8	0.8	3.6	0.9
AGRICULTURAL PRODUCTION	01-02	0.3	0.1	0.1	2.3	0.0	2.3	0.1
CONTRACT CONSTRUCTION	15-17	0.4	0.2	0.2	18.4	0.9	19.3	0.2
GENERAL BUILDING CONTRACTORS	15	0.4	0.2	0.2	13.0	0.5	13.5	0.3
General Contractors - Residential	152	0.3	0.2	0.2	6.8	0.8	7.6	0.1
General Contractors - Nonresidential	154	0.6	0.1	0.1	21.2	0.0	21.2	0.5
HEAVY CONSTRUCT CONTRACTORS	16	0.2	0.2	0.1	4.7	2.0	6.8	0.0
Highway and Street Construction	161	0.2	0.2	0.2	5.4	1.9	7.3	0.0
Heavy Construction, ex. Highway and Street	162	0.3	0.3	0.1	4.1	2.1	6.2	0.0
SPECIAL TRADE CONTRACTORS	17	0.4	0.2	0.2	25.5	0.8	26.3	0.2
Plumbing, Heating, Air Conditioning	171	0.3	0.3	0.2	4.7	0.1	4.8	0.0
Electrical Work	173	0.6	0.5	0.5	19.1	4.7	23.8	0.1
Masonry, Stonework, Tile Setting, Plastering	174	0.2	0.0	0.0	0.0	0.0	0.0	0.2
Miscellaneous Special Trade Contractors	179	0.5	0.2	0.2	74.1	0.0	74.1	0.3
MANUFACTURING	20-39	4.0	1.9	1.1	32.4	39.4	72.0	2.1
FOOD AND KINDRED PRODUCTS	20	4.0	2.1	1.0	19.8	28.2	48.0	1.9
Miscellaneous Food and Kindred Products	209	9.9	5.0	1.8	9.3	23.2	32.5	5.0
TEXTILE MILL PRODUCTS	22	1.7	1.0	0.8	26.8	20.8	47.6	0.7
Broadwoven Fabric Mills, Wool	223	1.8	0.8	0.7	18.9	6.9	25.8	0.9
Broadwoven Fabrics, Wool	2231	1.8	0.8	0.7	18.8	6.9	25.8	0.9
APPAREL AND OTHER TEXTILE PRODUCTS	23	2.6	1.9	1.3	34.9	39.2	74.1	0.7
LUMBER AND WOOD PRODUCTS	24	1.0	0.6	0.3	15.2	15.8	31.0	0.4
Logging Camps and Contractors	241	0.2	0.2	0.2	4.0	0.0	4.0	0.0
Sawmills and Planing Mills	242	0.8	0.5	0.3	21.6	5.0	26.6	0.2
Sawmills and Planing Mills, General	2421	0.5	0.4	0.3	24.2	2.2	26.4	0.1
Miscellaneous Wood Products	249	1.7	1.0	0.4	14.7	41.2	55.9	0.8
Wood Products, NEC	2499	1.9	1.2	0.5	17.7	49.5	67.2	0.8
PAPER AND ALLIED PRODUCTS	26	2.3	0.5	0.3	11.5	10.1	21.6	1.7
Paper Mills, Except Building Paper	262	2.4	0.5	0.3	10.8	10.4	21.2	1.9
Pulp Mills	2621	2.4	0.5	0.3	11.3	10.9	22.2	1.9
PRINTING AND PUBLISHING	27	2.0	1.9	1.8	25.6	39.1	64.7	0.1
Newspapers	271	0.5	0.3	0.3	9.5	2.2	11.7	0.2
Publishing or Publishing and Printing	2711	0.5	0.3	0.3	9.5	2.2	11.7	0.2
Commercial Printing	275	0.8	0.6	0.3	0.4	18.2	18.6	0.3
Commercial Printing, Lithography	2752	1.0	0.7	0.3	0.5	22.7	23.2	0.3
RUBBER AND PLASTIC PRODUCTS	30	1.8	1.0	0.7	54.5	15.2	69.7	0.8
Miscellaneous Plastic Products	308	2.2	1.2	0.8	67.4	19.5	86.9	1.0
LEATHER AND LEATHER PRODUCTS	31	6.6	3.6	2.4	68.1	62.9	131.0	3.0
Footwear, Except Rubber	314	6.4	3.3	2.3	73.1	53.9	127.0	3.0
Men's Footwear, except Athletic	3143	4.4	2.2	1.9	62.0	30.5	92.5	2.2
Women's Footwear, except Athletic	3144	6.4	3.9	1.9	39.3	69.9	109.2	2.5

TABLE 3 (Continued)

Incidence Rates of Recordable Occupational Illnesses by Type and Industry, Maine, 1990

INDUSTRY ¹	SIC ²	INCIDENCE RATES ³						
		Total ⁴ Cases	Total Lost Workday Cases	Cases With Days Away From Work	Days Away From Work	Days of Restricted Work Activity	Total Lost Workdays	Nonfatal Cases w/o Lost Workdays
MANUFACTURING (Continued)								
STONE, GLASS, CLAY, CONCRETE PROD	32	0.4	0.2	0.2	9.1	0.0	9.1	0.2
FABRICATED METAL PRODUCTS	34	2.9	1.4	1.0	45.0	20.5	65.5	1.5
MACHINERY, EXCEPT ELECTRICAL	35	1.5	0.7	0.6	19.2	9.7	28.9	0.8
Misc. Industrial and Commercial Machinery	359	1.6	0.5	0.5	8.8	0.0	8.8	1.1
ELECTRICAL EQUIPMENT AND SUPPLIES	36	3.1	1.7	1.1	49.7	31.2	80.9	1.4
Electronic Components and Accessories	367	2.7	1.4	0.9	44.3	17.2	61.5	1.3
Semiconductors and Related Devices	3674	2.7	1.6	1.0	39.8	21.7	61.5	1.1
TRANSPORTATION EQUIPMENT	37	11.7	4.9	1.8	54.3	128.9	183.3	6.9
Aircraft and Parts	372	3.7	0.7	0.7	9.5	0.0	9.5	3.0
Aircraft Engines and Engine Parts	3724	3.9	0.7	0.7	9.8	0.0	9.8	3.1
Ship, Boat Building and Repairing	373	14.0	5.9	2.0	66.9	163.6	230.5	8.1
Ship Building and Repairing	3731	15.0	6.4	2.2	72.3	176.8	249.1	8.6
MEASURING, ANALYZING, INSTRUMENTS	38	3.1	1.4	1.4	26.2	17.1	43.3	1.7
TRANSPORTATION AND PUBLIC UTILITIES	40-49	0.2	0.1	0.1	13.7	0.4	14.1	0.1
LOCAL, SUBURBAN, INTERURBAN TRANS.	41	0.1	0.0	0.0	0.0	0.0	0.0	0.1
TRUCKING AND WAREHOUSING	42	0.3	0.1	0.1	9.2	1.1	10.3	0.2
Trucking, Local and Long Distance	421	0.3	0.1	0.1	9.4	1.2	10.6	0.2
COMMUNICATIONS	48	0.1	0.1	0.1	1.5	0.2	1.7	0.0
ELECTRIC, GAS, AND SANITARY SERV	49	0.4	0.2	0.2	46.4	0.0	46.4	0.1
Electric Services	491	0.2	0.1	0.1	3.4	0.0	3.4	0.2
WHOLESALE AND RETAIL TRADE	50-59	0.6	0.3	0.2	8.9	4.8	13.7	0.3
WHOLESALE TRADE	50-51	0.3	0.2	0.1	2.2	4.5	6.7	0.2
WHOLESALE TRADE - DURABLE GOODS	50	0.1	0.1	0.1	0.6	2.3	2.9	0.0
Professional and Commercial Equip. and Supp	504	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Hardware, Plumbing, Heating Equipment	507	0.3	0.3	0.1	1.0	16.3	17.3	0.0
Machinery, Equipment, and Supplies	508	0.1	0.1	0.1	0.6	0.5	1.1	0.0
WHOLESALE - NONDURABLE GOODS	51	0.5	0.3	0.2	3.7	6.7	10.4	0.3
Groceries and Related Products	514	0.7	0.3	0.3	4.2	6.6	10.8	0.4
RETAIL TRADE	52-59	0.6	0.3	0.3	10.9	4.9	15.8	0.3
BUILDING HARDWARE AND GARDEN SUPP.	52	0.3	0.2	0.1	10.5	6.9	17.4	0.1
Lumber and Other Building Materials Dealers	521	0.6	0.4	0.2	17.8	11.8	29.6	0.2
GENERAL MERCHANDISE STORES	53	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Department Stores	531	0.0	0.0	0.0	0.0	0.0	0.0	0.0
FOOD STORES	54	2.2	1.3	1.1	41.4	20.2	61.6	0.9
Grocery Stores	541	2.4	1.4	1.2	45.0	22.1	67.1	1.0
AUTO DEALERS AND SERVICE STATIONS	55	0.1	0.1	0.1	13.7	0.0	13.7	0.0
New & Used Car Dealers	551	0.1	0.0	0.0	0.0	0.0	0.0	0.1
APPAREL AND ACCESSORY STORES	56	0.0	0.0	0.0	0.0	0.0	0.0	0.0
FURNITURE AND HOME FURN. STORES	57	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Furniture, Home Furnishings	571	0.0	0.0	0.0	0.0	0.0	0.0	0.0
EATING AND DRINKING PLACES	58	0.1	0.0	0.0	0.2	0.0	0.2	0.0

TABLE 3 (Continued)

Incidence Rates of Recordable Occupational Illnesses by Type and Industry, Maine, 1990

INDUSTRY¹	SIC²	INCIDENCE RATES³						
		Total⁴ Cases	Total Lost Workday Cases	Cases With Days Away From Work	Days Away From Work	Days of Restricted Work Activity	Total Lost Workdays	Nonfatal Cases w/o Lost Workdays
RETAIL TRADE (Continued)								
MISCELLANEOUS RETAIL STORES	59	1.9	0.5	0.4	14.0	8.3	22.4	1.4
Drug Stores	591	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous Shopping Stores	594	4.2	1.1	0.9	31.7	18.9	50.5	3.1
FINANCE, INSURANCE AND REAL ESTATE	60-67	0.9	0.6	0.4	16.1	8.3	24.4	0.3
BANKING	60	0.9	0.7	0.2	13.7	11.5	25.2	0.1
Commercial and Stock Savings Banks	602	1.7	1.4	0.5	26.1	22.1	48.2	0.3
INSURANCE	63	1.7	1.1	1.0	39.6	11.1	50.6	0.6
INSURANCE AGENTS BROKERS AND SERV.	64	0.5	0.1	0.0	0.0	3.0	3.0	0.4
REAL ESTATE	65	0.1	0.0	0.0	0.0	1.2	1.2	0.0
SERVICES	70-89	0.4	0.2	0.1	3.0	2.8	5.9	0.2
HOTELS AND OTHER LODGING PLACES	70	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Hotels, Tourist Courts and Motels	701	0.0	0.0	0.0	0.0	0.0	0.0	0.0
PERSONAL SERVICES	72	0.1	0.1	0.1	1.7	2.4	4.1	0.0
BUSINESS SERVICES	73	0.5	0.4	0.3	6.0	8.3	14.3	0.1
AUTO REPAIR SERVICES AND PARKING	75	0.0	0.0	0.0	0.0	0.7	0.7	0.0
AMUSEMENT AND RECREATION SERVICES	79	0.4	0.2	0.2	3.1	0.0	3.1	0.2
MEDICAL AND HEALTH SERVICES	80	0.6	0.2	0.2	3.2	2.4	5.6	0.5
Nursing and Personal Care Facilities	805	0.6	0.2	0.2	5.1	0.2	5.3	0.4
Hospitals	806	0.9	0.3	0.2	3.8	4.8	8.6	0.6
LEGAL SERVICES	81	0.0	0.0	0.0	0.0	0.0	0.0	0.0
EDUCATIONAL SERVICES	82	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SOCIAL SERVICES	83	0.0	0.0	0.0	0.0	0.0	0.0	0.0
MEMBERSHIP ORGANIZATIONS	86	0.0	0.0	0.0	0.4	0.7	1.1	0.0
ENGINEERING, ACCT., RESEARCH SERV.	87	0.6	0.3	0.2	7.6	8.1	15.7	0.3

See Footnotes at end of Table 6.

TABLE 4

Number of Recordable Occupational Injuries and Illnesses by Type and Industry, Maine, 1990

<u>INDUSTRY</u> ¹	<u>SIC</u> ²	<u>Total</u> ⁴ <u>Cases</u>	<u>Total</u> <u>Lost</u> <u>Workday</u> <u>Cases</u>	<u>Cases</u> <u>With</u> <u>Days</u> <u>Away</u> <u>From</u> <u>Work</u>	<u>Days</u> <u>Away</u> <u>From</u> <u>Work</u>	<u>Days</u> <u>of</u> <u>Restricted</u> <u>Work</u> <u>Activity</u>	<u>Total</u> <u>Lost</u> <u>Workdays</u>	<u>Nonfatal</u> <u>Cases</u> <u>w/o</u> <u>Lost</u> <u>Workdays</u>	<u>Average</u> <u>Lost</u> <u>Workdays</u> <u>per</u> <u>Lost</u> <u>Workday</u> <u>Cases</u>
PRIVATE SECTOR, ALL INDUSTRIES	01-89	51,258	25,093	18,567	428,190	192,710	620,900	26,144	25
AGRICULTURE, FORESTRY, AND FISHING	01-09	603	299	290	6,575	710	7,285	292	24
AGRICULTURAL SERVICES	07	326	154	145	2,566	399	2,965	162	19
AGRICULTURAL PRODUCTION	01-02	234	124	124	2,513	293	2,806	108	23
CONTRACT CONSTRUCTION	15-17	4,507	2,185	1,990	49,850	4,485	54,335	2,322	25
GENERAL BUILDING CONTRACTORS	15	1,573	828	743	17,254	1,692	18,946	745	23
General Contractors - Residential	152	648	374	357	5,558	474	6,032	274	16
General Contractors - Nonresidential	154	920	450	382	11,557	1,218	12,775	470	28
HEAVY CONSTRUCTION CONTRACTORS	16	663	300	254	7,895	1,229	9,124	353	30
Highway and Street Construction	161	360	137	128	3,176	530	3,706	223	27
Heavy Construction, ex. Highway, Street	162	293	163	126	4,719	699	5,418	130	33
SPECIAL TRADE CONTRACTORS	17	2,281	1,057	993	24,701	1,564	26,265	1,224	25
Plumbing, Heating, Air Conditioning	171	617	266	249	5,747	291	6,038	351	23
Electrical Work	173	277	122	113	3,071	250	3,321	155	27
Masonry, Stonework, Tile Setting, plastering	174	261	155	149	3,906	159	4,065	106	26
Miscellaneous Special Trade Contractors	179	636	289	267	8,500	577	9,077	347	31

TABLE 4 (Continued)

Number of Recordable Occupational Injuries and Illnesses by Type and Industry, Maine, 1990

<u>INDUSTRY</u> ¹	<u>SIC</u> ²	<u>Total</u> ⁴ <u>Cases</u>	<u>Total</u> <u>Lost</u> <u>Workday</u> <u>Cases</u>	<u>Cases</u> <u>With</u> <u>Days</u> <u>Away</u> <u>From</u> <u>Work</u>	<u>Days</u> <u>Away</u> <u>From</u> <u>Work</u>	<u>Days</u> <u>of</u> <u>Restricted</u> <u>Work</u> <u>Activity</u>	<u>Total</u> <u>Lost</u> <u>Workdays</u>	<u>Nonfatal</u> <u>Cases</u> <u>w/o</u> <u>Lost</u> <u>Workdays</u>	<u>Average</u> <u>Lost</u> <u>Workdays</u> <u>per</u> <u>Lost</u> <u>Workday</u> <u>Cases</u>
MANUFACTURING	20-39	23,538	11,908	7,042	170,333	135,597	305,930	11,624	26
FOOD AND KINDRED PRODUCTS	20	1,594	848	651	11,405	5,419	16,824	746	20
Miscellaneous Food and Kindred Products	209	391	232	146	2,012	921	2,933	159	13
TEXTILE MILL PRODUCTS	22	970	481	340	10,924	3,580	14,504	489	30
Broadwoven Fabric mills, Wool	223	376	163	105	3,153	1,035	4,188	213	26
Broadwoven Fabric mills, Wool	2231	376	163	105	3,153	1,035	4,188	213	26
APPAREL AND TEXTILE PRODUCTS	23	401	166	110	1,689	1,495	3,184	235	19
LUMBER AND WOOD PRODUCTS	24	2,236	1,220	986	22,907	7,787	30,694	1,015	25
Logging Camps and Contractors	241	501	340	324	8,297	390	8,687	160	26
Sawmills and Planing Mills	242	619	322	270	5,148	1,583	6,731	297	21
Sawmills and Planing Mills, General	2421	538	267	232	4,453	1,240	5,693	271	21
Miscellaneous Wood Products	249	764	412	275	6,910	5,140	12,050	352	29
Wood Products, NEC	2499	655	352	241	5,839	4,818	10,657	303	30
PAPER AND ALLIED PRODUCTS	26	3,419	1,519	814	28,034	23,126	51,160	1,900	34
Paper Mills, Except Building Paper	262	3,208	1,419	747	24,831	20,620	45,451	1,789	32
Pulp Mills	2621	3,185	1,394	745	24,619	20,746	45,365	1,791	33
PRINTING AND PUBLISHING	27	541	351	280	4,019	3,631	7,650	190	22
Newspapers	271	179	81	75	1,152	308	1,460	98	18
Publishing or Publishing or Printing	2711	179	81	75	1,152	308	1,460	98	18
Commercial Printing	275	251	159	94	1,313	992	2,305	92	14
Commercial Printing, Lithography	2752	250	159	94	1,313	992	2,305	91	14
RUBBER AND PLASTIC PRODUCTS	30	747	367	293	7,223	2,532	9,755	380	27
Miscellaneous Plastic Products	308	456	240	189	5,576	1,657	7,233	216	30
LEATHER AND LEATHER PRODUCTS	31	2,159	1,096	774	17,713	10,307	28,020	1,063	26
Footwear, Except Rubber	314	1,525	793	553	13,372	7,507	20,879	732	26
Men's Footwear, except Athletic	3143	555	297	206	4,846	1,765	6,611	258	22
Women's Footwear, except Athletic	3144	473	265	165	3,080	3,054	6,134	208	23

TABLE 4 (Continued)

Number of Recordable Occupational Injuries and Illnesses by Type and Industry, Maine, 1990

INDUSTRY¹	SIC²	Total⁴ Cases	Total Lost Workday Cases	Cases With Days Away From Work	Days Away From Work	Days of Restricted Work Activity	Total Lost Workdays	Nonfatal Cases w/o Lost Workdays	Average Lost Workdays per Lost Workday Cases
MANUFACTURING (Continued)									
STONE, GLASS, CLAY, CONCRETE PROD	32	370	165	132	2,346	571	2,917	201	18
FABRICATED METAL PRODUCTS	34	535	278	213	5,171	1,212	6,383	257	23
MACHINERY, EXCEPT ELECTRICAL	35	623	295	225	4,819	1,720	6,539	328	22
Misc. Industrial and Commercial Machinery	359	331	145	98	1,463	588	2,051	186	14
ELECTRICAL EQUIPMENT AND SUPPLIES	36	729	424	226	6,176	4,525	10,701	305	25
Electronic Components and Accessories	367	268	153	115	2,881	954	3,835	115	25
Semiconductors and Related Devices	3674	139	79	62	1,587	609	2,196	60	28
TRANSPORTATION EQUIPMENT	37	8,473	4,300	1,748	43,514	67,021	110,535	4,173	26
Aircraft and Parts	372	318	74	72	750	32	782	244	11
Aircraft Engines and Engine Parts	3724	318	74	72	750	32	782	244	11
Ship, Boat Building and Repairing	373	7,974	4,098	1,604	41,477	66,318	107,795	3,876	26
Ship Building and Repairing	3731	7,707	4,061	1,569	41,218	66,257	107,475	3,646	26
MEASURING, ANALYZING INSTRUMENTS	38	147	62	62	843	276	1,119	85	18
TRANSPORTATION AND PUBLIC UTILITIES	40-49	2,213	1,070	957	35,878	6,012	41,890	1,143	39
TRUCKING AND WAREHOUSING	42	1,082	672	642	29,438	3,081	32,519	410	48
Trucking, Local and Long Distance	421	1,022	644	614	28,696	3,007	31,703	378	49
COMMUNICATIONS	48	318	105	57	670	1,765	2,435	213	23
ELECTRIC, GAS, AND SANITARY SERVICE	49	406	130	104	3,405	887	4,292	276	33
Electric Services	491	256	77	71	1,307	746	2,053	179	27
WHOLESALE AND RETAIL TRADE	50-59	10,847	5,188	4,497	87,087	24,967	112,054	5,656	22
WHOLESALE TRADE	50-51	3,218	1,683	1,421	27,863	8,676	36,539	1,532	22
WHOLESALE - DURABLE GOODS	50	1,377	628	525	11,145	2,299	13,444	748	21
Professional and Commercial Equip.	504	123	50	30	969	154	1,123	73	22
Hardware, Plumbing, Heating Equipment	507	258	104	83	2,994	1,011	4,005	154	39
Machinery, Equipment, and Supplies	508	240	98	97	1,871	52	1,923	142	20

TABLE 4 (Continued)

Number of Recordable Occupational Injuries and Illnesses by Type and Industry, Maine, 1990

<u>INDUSTRY¹</u>	<u>SIC²</u>	<u>Total⁴ Cases</u>	<u>Total Lost Workday Cases</u>	<u>CasesWith Days Away From Work</u>	<u>Days Away From Work</u>	<u>Days of Restricted Work Activity</u>	<u>Total Lost Workdays</u>	<u>Nonfatal Cases w/o Lost Workdays</u>	<u>Average Lost Workdays per Lost Workday Cases</u>
WHOLESALE TRADE (Continued)									
WHOLESALE - NONDURABLE GOODS	51	1,841	1,055	896	16,718	6,377	23,095	784	22
Groceries and Related Products	514	1,067	584	488	10,716	3,854	14,570	483	25
RETAIL TRADE	52-59	7,629	3,505	3,076	59,224	16,291	75,515	4,124	22
BUILDING HARDWARE AND GARDEN	52	489	236	217	4,100	1,015	5,115	253	22
Lumber and Building Material Dealers	521	406	181	162	3,101	909	4,010	225	22
GENERAL MERCHANDISE STORES	53	1,125	498	470	9,809	1,250	11,059	627	22
Department Stores	531	954	389	370	8,210	1,074	9,284	565	24
FOOD STORES	54	1,906	1,238	1,039	17,611	9,075	26,686	668	22
Grocery Stores	541	1,893	1,238	1,039	17,611	9,075	26,686	655	22
AUTO DEALERS AND SERVICE STATIONS	55	1,123	435	398	12,735	1,862	14,597	688	34
New and Used Car Dealers	551	360	128	124	2,744	499	3,243	232	25
APPAREL AND ACCESSORY STORES	56	416	151	146	3,389	36	3,425	265	23
FURNITURE AND HOME FURN. STORES	57	131	70	70	3,039	212	3,060	61	44
Furniture, Home Furnishings	571	108	47	47	2,763	21	2,784	61	59
EATING AND DRINKING PLACES	58	1,645	697	602	5,205	1,033	6,238	948	9

TABLE 4 (Continued)

Number of Recordable Occupational Injuries and Illnesses by Type and Industry, Maine, 1990

INDUSTRY¹	SIC²	Total⁴ Cases	Total Lost Workday Cases	CasesWith Days Away From Work	Days Away From Work	Days of Restricted Work Activity	Total Lost Workdays	Nonfatal Cases w/o Lost Workdays	Average Lost Workdays per Lost Workday Cases
RETAIL TRADE (Continued)									
MISCELLANEOUS RETAIL STORES	59	1,272	350	305	5,865	2,230	8,095	922	23
Drug Stores	591	85	46	46	309	0	309	39	7
Miscellaneous Shopping Goods	594	694	163	135	3,862	1,952	5,814	531	36
FINANCE, INSURANCE, REAL ESTATE	60-67	848	398	331	8,509	3,068	11,577	450	29
BANKING	60	266	129	84	2,356	1,395	3,751	137	29
Commercial and Stock Savings Banks	602	167	122	77	2,322	13395	3,717	45	30
INSURANCE	63	340	137	128	4,618	1,043	5,661	203	41
INSURANCE AGENTS BROKERS SERV.	64	89	29	21	452	164	616	60	21
REAL ESTATE	65	150	100	95	1,067	466	1,533	50	15
SERVICES	70-89	8,198	3,858	3,274	67,278	17,635	84,913	4,340	22
HOTELS AND OTHER LODGING PLACES	70	507	228	214	3,611	555	4,166	279	18
Hotels, Tourist Courts and Motels	701	341	168	160	3,325	548	3,873	173	23
PERSONAL SERVICES	72	100	64	59	2,508	395	2,903	36	45
BUSINESS SERVICES	73	796	386	359	13,665	1,963	15,628	410	40
AUTO REPAIR SERVICES AND GARAGES	75	384	179	134	1,053	487	1,540	205	9
AMUSEMENT, RECREATION SERVICES	79	213	155	150	4,594	821	5,415	58	35
MEDICAL AND HEALTH SERVICES	80	4,351	2,216	1,842	33,904	9,998	43,902	2,135	20
Nursing and Personal Care Facilities	805	1,781	1,162	939	17,467	6,389	23,856	619	21
Hospitals	806	2,001	827	703	12,781	3,377	16,158	1,174	20

TABLE 4 (Continued)

Number of Recordable Occupational Injuries and Illnesses by Type and Industry, Maine, 1990

INDUSTRY¹	SIC²	Total⁴ Cases	Total Lost Workday Cases	CasesWith Days Away From Work	Days Away From Work	Days of Restricted Work Activity	Total Lost Workdays	Nonfatal Cases w/o Lost Workdays	Average Lost Workdays per Lost Workday Cases
SERVICES (Continued)									
LEGAL SERVICES	81	211	12	12	106	0	106	199	9
EDUCATIONAL SERVICES	82	459	178	140	1498	748	2,246	281	13
SOCIAL SERVICES	83	687	225	171	3,021	1,415	4,436	462	20
MEMBERSHIP ORGANIZATIONS	86	69	26	26	217	17	234	43	9
ENGINEERING,ACCT.,RESEARCH,SERV.	87	262	106	98	976	898	1,874	156	18

See Footnotes at end of Table 6.

TABLE 5

Number of Recordable Occupational Injuries by Type and Industry, Maine, 1990

<u>INDUSTRY¹</u>	<u>SIC²</u>	<u>Total⁴ Cases</u>	<u>Total Lost Workday Cases</u>	<u>CasesWith Days Away From Work</u>	<u>Days Away From Work</u>	<u>Days of Restricted Work Activity</u>	<u>Total Lost Workdays</u>	<u>Nonfatal Cases w/o Lost Workdays</u>	<u>Average Lost Workdays per Lost Workday Cases</u>
PRIVATE SECTOR, ALL INDUSTRIES	01-89	45,988	22,592	17,018	371,464	144,323	515,787	23,377	23
AGRICULTURE, FORESTRY, AND FISHING	01-09	563	283	276	5,104	693	5,797	269	20
AGRICULTURAL SERVICES	07	297	145	138	2,502	382	2,884	142	20
AGRICULTURAL PRODUCTION	01-02	231	123	123	2,486	293	2,779	107	23
CONTRACT CONSTRUCTION	15-17	4,410	2,132	1,944	45,308	4,265	49,573	2,278	23
GENERAL BUILDING CONTRACTORS	15	1,538	815	730	16,211	1,654	17,865	723	22
General Contractors - Residential	152	635	364	347	5,261	436	5,697	271	16
General Contractors - Nonresidential	154	899	447	379	10,811	1,218	12,029	452	27
HEAVY CONSTRUCT CONTRACTORS	16	645	292	249	7,723	1,155	8,878	353	30
Highway and Street Construction	161	357	134	125	3,077	495	3,572	223	27
Heavy Construction, ex. Highway, Street	162	288	158	124	4,646	660	5,306	130	34
SPECIAL TRADE CONTRACTORS	17	2,227	1,025	965	21,374	1,456	22,830	1,202	22
Plumbing, Heating, Air Conditioning	171	608	257	244	5,612	287	5,899	351	23
Electrical Work	173	263	111	102	2,652	146	2,798	152	25
Masonry, Stonework, Tile Setting, Plastering	174	259	155	149	3,906	159	4,065	106	26
Miscellaneous Special Trade Contractors	179	616	281	259	5,734	577	6,311	335	22

TABLE 5 (Continued)

Number of Recordable Occupational Injuries by Type and Industry, Maine, 1990

INDUSTRY¹	SIC²	Total⁴ Cases	Total Lost Workday Cases	CasesWith Days Away From Work	Days Away From Work	Days of Restricted Work Activity	Total Lost Workdays	Nonfatal Cases w/o Lost Workdays	Average Lost Workdays per Lost Workday Cases
MANUFACTURING	20-39	19,655	10,081	6,017	138,820	97,085	235,905	9,568	23
FOOD AND KINDRED PRODUCTS	20	1,344	718	587	10,150	3,638	13,788	626	19
Miscellaneous Food and Kindred Products	209	273	173	125	1,901	645	2,546	100	15
TEXTILE MILL PRODUCTS	22	878	427	296	9,478	2,458	11,936	451	28
Broadwoven Fabric Mills, Wool	223	331	142	86	2,674	858	3,532	189	25
Broadwoven Fabric Mills, Wool	2231	331	142	86	2,674	858	3,532	189	25
APPAREL OTHER TEXTILE PRODUCTS	23	338	121	79	847	550	1,397	217	12
LUMBER AND WOOD PRODUCTS	24	2,136	1,160	951	21,356	6,166	27,522	975	24
Logging Camps and Contractors	241	497	336	320	8,198	390	8,588	160	26
Sawmills and Planing Mills	242	597	307	260	4,521	1,439	5,960	290	19
Sawmills and Planing Mills, General	2421	526	258	224	3,857	1,185	5,042	268	20
Miscellaneous Wood Products	249	704	379	261	6,404	3,723	10,127	325	27
Wood Products, NEC	2499	600	319	227	5,333	23,401	8,734	281	27
PAPER AND ALLIED PRODUCTS	26	3,014	1,427	758	25,971	21,327	47,298	1,587	33
Paper Mills, Except Building Paper	262	2,823	1,334	700	23,109	18,944	42,053	1,489	32
Pulp Mills	2621	2,799	1,309	696	22,808	19,001	41,809	1,490	32
PRINTING AND PUBLISHING	27	402	221	156	2,232	891	3,123	181	14
Newspapers	271	167	73	67	927	255	1,182	94	16
Publishing or Publishing and Printing	2711	167	73	67	927	255	1,182	94	16
Commercial Printing	275	235	148	89	1,305	636	1,941	87	13
Commercial Printing, Lithography	2752	234	148	89	1,305	636	1,941	86	13
RUBBER AND PLASTIC PRODUCTS	30	687	333	270	5,384	2,019	7,403	354	22
Miscellaneous Plastic Products	308	398	208	168	3,795	1,144	4,939	190	24
LEATHER AND LEATHER PRODUCTS	31	1,531	754	548	11,199	4,288	15,487	777	21
Footwear, Except Rubber	314	1,024	529	371	7,612	3,256	10,868	495	21
Men's Footwear, except Athletic	3143	406	224	142	2,743	730	3,473	182	16
Women's Footwear, except Athletic	3144	318	171	119	2,123	1,353	3,476	147	20

TABLE 5 (Continued)

Number of Recordable Occupational Injuries by Type and Industry, Maine, 1990

INDUSTRY¹	SIC²	Total⁴ Cases	Total Lost Workday Cases	Cases With Days Away From Work	Days Away From Work	Days of Restricted Work Activity	Total Lost Workdays	Nonfatal Cases w/o Lost Workdays	Average Lost Workdays per Lost Workday Cases
MANUFACTURING (Continued)									
STONE, GLASS, CLAY, CONCRETE PROD	32	364	162	129	2,223	571	2,794	198	17
FABRICATED METAL PRODUCTS	34	460	242	188	4,008	683	4,691	218	19
MACHINERY, EXCEPT ELECTRICAL	35	555	263	197	3,976	1,293	5,269	292	20
Misc. Industrial and Commercial Machinery	359	300	135	88	1,289	588	1,877	165	14
ELECTRICAL EQUIPMENT & SUPPLIES	36	480	287	140	2,225	2,038	4,263	193	15
Electronic Components and Accessories	367	147	89	73	871	172	1,043	58	12
Semiconductors and Related Devices	3674	66	36	36	515	24	539	30	15
TRANSPORTATION EQUIPMENT	37	6,866	3,634	1,507	36,062	49,336	85,398	3,232	23
Aircraft and Parts	372	244	60	58	563	32	595	184	10
Aircraft Engines and Engine Parts	3724	244	60	58	563	32	595	184	140
Shp. Boat Building and Repairing	373	6,486	3,472	1,389	34,356	48,903	83,259	3,014	24
Ship Building and Repairing	3731	6,231	3,435	1,354	34,097	48,842	82,939	2,796	24
MEASURING, ANALYZING INSTRUMENTS	38	107	44	44	505	56	561	63	13
TRANSPORTATION AND PUBLIC UTILITIES	40-49	2,170	1,047	935	33,006	5,918	38,924	1,123	37
TRUCKING AND WAREHOUSING	42	1,063	665	635	28,745	2,995	31,740	398	48
Trucking, Local & Long Distance	421	1,003	637	607	28,003	2,921	30,924	366	49
COMMUNICATIONS	48	313	101	54	599	1,757	2,356	212	23
ELECTRIC, GAS, AND SANITARY SERVICE	49	389	119	93	1,298	887	2,185	270	18
Electric Services	491	247	74	68	1,177	746	1,923	173	26
WHOLESALE AND RETAIL TRADE	50-59	10,271	4,913	4,266	78,120	20,118	98,238	5,356	20
WHOLESALE TRADE	50-51	3,139	1,642	1,387	27,343	7,613	34,956	1,495	21
WHOLESALE - DURABLE GOODS	50	1,362	618	517	11,075	2,040	13,115	744	21
Professional, Commercial Equip. and Supp.	504	123	50	30	969	154	1,123	73	22
Hardware, Plumbing, Heating Equipment	507	254	100	81	2,979	766	3,745	154	37
Machinery, Equipment, and Supplies	508	237	95	94	1,855	38	1,893	142	20

TABLE 5 (Continued)

Number of Recordable Occupational Injuries by Type and Industry, Maine, 1990

INDUSTRY¹	SIC²	Total⁴ Cases	Total Lost Workday Cases	CasesWith Days Away From Work	Days Away From Work	Days of Restricted Work Activity	Total Lost Workdays	Nonfatal Cases w/o Lost Workdays	Average Lost Workdays per Lost Workday Cases
WHOLESALE TRADE (Continued)									
WHOLESALE - NONDURABLE GOODS	51	1,777	1,024	870	16,268	5,573	21,841	751	21
Groceries and Related Products	514	1,026	566	470	10,470	3,465	13,935	460	25
RETAIL TRADE	52-59	7,132	3,271	2,879	50,777	12,505	63,282	3,861	19
BUILDING HARDWARE GARDEN SUPPLY	52	474	226	211	3,631	704	4,335	248	19
Lumber and Building Material Dealers	521	391	171	156	2,632	598	3,230	220	19
GENERAL MERCHANDISE STORES	53	1,125	498	470	9,809	1,250	11,059	627	22
Department Stores	531	954	389	370	8,210	1,074	9,284	565	24
FOOD STORES	54	1,620	1,069	895	12,133	6,391	18,524	551	17
Grocery Stores	541	1,607	1,069	895	12,133	6,391	18,524	538	17
AUTO DEALERS AND SERVICE STATIONS	55	1,114	429	392	11,114	1,862	12,976	685	30
New and Used Car Dealers	551	358	128	124	2,744	499	3,243	230	25
APPAREL AND ACCESSORY STORES	56	415	151	146	3,389	36	3,425	264	23
FURNITURE AND HOME FURN STORES	57	131	70	70	3,039	21	3,060	61	44
Furniture, Home Furnishings	571	108	47	47	2,763	21	2,784	61	59
EATING AND DRINKING PLACES	58	1,634	694	599	5,168	1,033	6,201	940	9

TABLE 5 (Continued)

Number of Recordable Occupational Injuries by Type and Industry, Maine, 1990

<u>INDUSTRY</u> ¹	<u>SIC</u> ²	<u>Total</u> ⁴ <u>Cases</u>	<u>Total</u> <u>Lost</u> <u>Workday</u> <u>Cases</u>	<u>Cases</u> <u>With</u> <u>Days</u> <u>Away</u> <u>From</u> <u>Work</u>	<u>Days</u> <u>Away</u> <u>From</u> <u>Work</u>	<u>Days</u> <u>of</u> <u>Restricted</u> <u>Work</u> <u>Activity</u>	<u>Total</u> <u>Lost</u> <u>Workdays</u>	<u>Nonfatal</u> <u>Cases</u> <u>w/o</u> <u>Lost</u> <u>Workdays</u>	<u>Average</u> <u>Lost</u> <u>Workdays</u> <u>per</u> <u>Lost</u> <u>Workday</u> <u>Cases</u>
RETAIL TRADE (Continued)									
MISCELLANEOUS RETAIL STORES	59	999	350	305	5,865	2,230	8,095	922	23
Drug Stores	591	85	46	46	309	0	309	39	7
Miscellaneous Shopping Goods	594	421	90	75	1,820	737	2,557	331	28
FINANCE, INSURANCE, REAL ESTATE	60-67	649	262	253	4,971	1,244	6,215	387	24
BANKING	60	187	62	62	1,110	342	1,452	125	23
Commercial and Stock Savings Banks	602	88	55	55	1,076	342	1,418	33	26
INSURANCE	63	240	73	72	2,326	404	2,730	167	37
INSURANCE AGENTS BROKERS SERV.	64	71	25	21	452	64	516	46	21
SERVICES	70-89	7,864	3,714	3,163	64,655	15,188	79,843	4,150	21
HOTELS AND OTHER LODGING PLACES	70	505	228	214	3,611	555	4,166	277	18
Hotels, Tourist Courts and Motels	701	339	168	160	3,325	548	3,873	171	23
PERSONAL SERVICES	72	97	62	57	2,456	325	2,781	35	45
BUSINESS SERVICES	73	740	342	330	13,025	1,085	14,110	398	41
AUTO REPAIR SERVICES AND GARAGES	75	383	178	134	1,053	464	1,517	205	9
AMUSEMENT AND RECREATION SERV.	79	203	150	145	4,510	821	5,331	53	36
MEDICAL AND HEALTH SERVICES	80	4,144	2,154	1,790	32,882	9,234	42,116	1,990	20
Nursing and Personal Care Facilities	805	1,731	1,144	921	17,049	6,371	23,420	587	20
Hospitals	806	1,858	783	669	12,177	2,631	14,808	1,075	19

TABLE 5 (Continued)

Number of Recordable Occupational Injuries by Type and Industry, Maine, 1990

<u>INDUSTRY</u> ¹	<u>SIC</u> ²	<u>Total</u> ⁴ <u>Cases</u>	<u>Total</u> <u>Lost</u> <u>Workday</u> <u>Cases</u>	<u>Cases</u> <u>With</u> <u>Days</u> <u>Away</u> <u>From</u> <u>Work</u>	<u>Days</u> <u>Away</u> <u>From</u> <u>Work</u>	<u>Days</u> <u>of</u> <u>Restricted</u> <u>Work</u> <u>Activity</u>	<u>Total</u> <u>Lost</u> <u>Workdays</u>	<u>Nonfatal</u> <u>Cases</u> <u>w/o</u> <u>Lost</u> <u>Workdays</u>	<u>Average</u> <u>Lost</u> <u>Workday</u> <u>Cases</u>
SERVICES (Continued)									
LEGAL SERVICES	81	211	12	12	106	0	106	199	9
EDUCATIONAL SERVICES	82	459	178	140	1,498	748	2,246	281	13
SOCIAL SERVICES	83	685	224	170	3,018	1,415	4,433	461	20
MEMBERSHIP ORGANIZATIONS	86	68	25	25	209	0	209	43	8
ENGINEERING.ACCT..RESEARCH SERV.	87	213	80	79	322	203	525	133	7

See Footnotes at end of Table 6.

TABLE 6

Number of Recordable Occupational Illnesses by Type and Industry, Maine, 1990

<u>INDUSTRY¹</u>	<u>SIC²</u>	<u>Total⁴ Cases</u>	<u>Total Lost Workday Cases</u>	<u>CasesWith Days Away From Work</u>	<u>Days Away From Work</u>	<u>Days of Restricted Work Activity</u>	<u>Total Lost Workdays</u>	<u>Nonfatal Cases w/o Lost Workdays</u>	<u>Average Lost Workdays per Lost Workday Cases</u>
PRIVATE SECTOR, ALL INDUSTRIES	01-89	5,270	2,501	1,549	56,726	48,387	105,113	2,767	42
AGRICULTURE, FORESTRY AND FISHING	01-09	40	16	14	1,471	17	1,488	23	93
AGRICULTURAL SERVICES	07	29	9	7	64	17	81	20	9
AGRICULTURAL PRODUCTION	01-02	3	1	1	27	0	27	1	27
CONTRACT CONSTRUCTION	15-17	97	53	46	4,542	220	4,762	44	90
GENERAL BUILDING CONTRACTORS	15	35	13	13	1,043	38	1,081	22	83
General Contractors - Residential	152	13	10	10	297	38	335	3	34
General Contractors - Nonresidential	154	21	3	3	746	0	746	18	249
HEAVY CONSTRUCT CONTRACTORS	16	8	8	5	172	74	246	0	31
Highway and Street Construction	161	3	3	3	99	35	134	0	45
Heavy Construction, ex. Highway and Street	162	5	5	2	73	39	112	0	22
SPECIAL TRADE CONTRACTORS	17	54	32	28	3,327	108	3,435	22	107
Plumbing, Heating, Air Conditioning	171	9	9	5	135	4	139	0	15
Electrical Work	173	14	11	11	419	104	523	3	48
Masonry, Stonework, Tile Setting, Plastering	174	2	0	0	0	0	0	2	0
Miscellaneous Special Trade Contractors	179	20	8	8	2,766	0	2,766	12	346

TABLE 6 (Continued)

Number of Recordable Occupational Illnesses by Type and Industry, Maine, 1990

<u>INDUSTRY</u> ¹	<u>SIC</u> ²	<u>Total</u> ⁴ <u>Cases</u>	<u>Total</u> <u>Lost</u> <u>Workday</u> <u>Cases</u>	<u>Cases</u> <u>With</u> <u>Days</u> <u>Away</u> <u>From</u> <u>Work</u>	<u>Days</u> <u>Away</u> <u>From</u> <u>Work</u>	<u>Days</u> <u>of</u> <u>Restricted</u> <u>Work</u> <u>Activity</u>	<u>Total</u> <u>Lost</u> <u>Workdays</u>	<u>Nonfatal</u> <u>Cases</u> <u>w/o</u> <u>Lost</u> <u>Workdays</u>	<u>Average</u> <u>Lost</u> <u>Workdays</u> <u>per</u> <u>Lost</u> <u>Workday</u> <u>Cases</u>
MANUFACTURING	20-39	3,883	1,827	1,025	31,513	38,512	70,025	2,056	38
FOOD AND KINDRED PRODUCTS	20	250	130	64	1,255	1,781	3,036	120	23
Miscellaneous Food and Kindred Products	209	118	59	21	111	276	387	59	7
TEXTILE MILL PRODUCTS	22	92	54	44	1,446	1,122	2,568	38	48
Broadwoven Fabric Mills, Wool	223	45	21	19	479	177	656	24	31
Broadwoven Fabric Mills, Wool	2231	45	21	19	479	177	656	24	31
APPAREL AND TEXTILE PRODUCTS	23	63	45	31	842	945	1,787	18	40
LUMBER AND WOOD PRODUCTS	24	100	60	35	1,551	1,621	3,172	40	53
Logging Camps and Contractors	241	4	4	4	99	07	99	0	25
Sawmills and Planing Mills	242	22	15	10	627	144	771	7	51
Sawmills and Planing Mills, General	2421	12	9	8	596	55	651	3	72
Miscellaneous Wood Products	249	60	33	14	506	1,417	1,923	27	58
Wood Products, NEC	2499	55	33	14	506	1,417	1,923	22	58
PAPER AND ALLIED PRODUCTS	26	405	92	56	2,063	1,799	3,862	313	42
Paper Mills, Except Building Paper	262	386	85	49	1,811	1,745	3,556	301	42
Pulp Mills	2621	386	85	49	1,811	1,745	3,556	301	42
PRINTING AND PUBLISHING	27	139	130	124	1,787	2,740	4,527	9	35
Newspapers	271	12	8	8	225	53	278	4	35
Publishing or Publishing and Printing	2711	12	8	8	225	53	278	4	35
Commercial Printing	275	16	11	5	8	356	364	5	33
Commercial Printing, Lithography	2752	16	11	5	8	356	364	5	33
RUBBER AND PLASTIC PRODUCTS	30	60	34	23	1,839	513	2,352	26	69
Miscellaneous Plastic Products	308	58	32	21	1,781	513	2,294	26	72
LEATHER AND LEATHER PRODUCTS	31	628	342	226	6,514	6,019	12,533	286	37
Footwear, Except Rubber	314	501	264	182	5,760	4,251	10,011	237	38
Men's Footwear, except Athletic	3143	149	73	64	2,103	1,035	3,138	76	43
Women's Footwear, except Athletic	3144	155	94	46	957	1,701	2,658	61	28

TABLE 6 (Continued)

Number of Recordable Occupational Illnesses by Type and Industry, Maine, 1990

INDUSTRY¹	SIC²	Total⁴ Cases	Total Lost Workday Cases	Cases With Days Away From Work	Days Away From Work	Days of Restricted Work Activity	Total Lost Workdays	Nonfatal Cases w/o Lost Workdays	Average Lost Workdays per Lost Workday Cases
MANUFACTURING (Continued)									
STONE, GLASS, CLAY, CONCRETE PROD	32	6	3	3	123	0	123	3	41
FABRICATED METAL PRODUCTS	34	75	36	25	1,163	529	1,692	39	47
MACHINERY, EXCEPT ELECTRICAL	35	68	32	28	843	427	1,270	36	40
Misc. Industrial and Commercial Equip.	359	31	10	10	174	0	174	21	17
ELECTRICAL EQUIPMENT AND SUPPLIES	36	249	137	86	3,951	2,487	6,438	112	47
Electronic Components and Accessories	367	121	64	42	2,010	782	2,792	57	44
Semiconductors and Related Devices	3674	73	43	26	1,072	585	1,657	30	39
TRANSPORTATION EQUIPMENT	37	1,607	666	241	7,452	17,685	25,137	941	38
Aircraft and Parts	372	74	14	14	187	0	187	60	13
Aircraft Engines and Engine Parts	3724	74	14	14	187	0	187	60	13
Ship, Boat Building and Repairing	373	1,488	626	215	7,121	17,415	24,536	862	39
Ship Building and Repairing	3731	1,476	626	215	7,121	17,415	24,536	850	39
TRANSPORTATION AND PUBLIC UTIL	40-49	43	23	22	2,872	94	2,966	20	129
TRUCKING AND WAREHOUSING	42	19	7	7	693	86	779	12	111
Trucking, Local and Long Distance	421	19	7	7	693	86	779	12	111
COMMUNICATIONS	48	5	4	3	71	8	79	1	20
ELECTRIC, GAS, AND SANITARY SERV	49	17	11	11	2,107	0	2,107	6	192
Electric Services	491	9	3	3	130	0	130	6	43
WHOLESALE AND RETAIL TRADE	50-59	576	275	231	8,967	4,849	13,816	300	50
WHOLESALE TRADE	50-51	79	41	34	520	1,063	1,583	37	39
WHOLESALE - DURABLE GOODS	50	15	10	8	70	259	329	4	33
Professional and Commercial Equip.	504	0	0	0	0	0	0	0	0
Hardware, Plumbing, Heating Equipment	507	4	4	2	15	245	260	0	65
Machinery, Equipment, and Supplies	508	3	3	3	16	14	30	0	10

TABLE 6 (Continued)

Number of Recordable Occupational Illnesses by Type and Industry, Maine, 1990

INDUSTRY¹	SIC²	Total⁴ Cases	Total Lost Workday Cases	CasesWith Days Away From Work	Days Away From Work	Days of Restricted Work Activity	Total Lost Workdays	Nonfatal Cases w/o Lost Workdays	Average Lost Workdays per Lost Workday Cases
WHOLESALE TRADE (Continued)									
WHOLESALE - NONDURABLE GOODS	51	64	31	26	450	804	1,254	33	40
Groceries and Related Products	514	41	18	18	246	389	635	23	35
RETAIL TRADE	52-59	497	234	197	8,447	3,786	12,233	263	52
BUILDING HARDWARE GARDEN SUPPLY	52	15	10	6	469	311	780	5	78
Lumber and Building Material Dealers	521	15	10	6	469	311	780	5	78
GENERAL MERCHANDISE STORES	53	0	0	0	0	0	0	0	0
Department Stores	531	0	0	0	0	0	0	0	0
FOOD STORES	54	286	169	144	5,478	2,684	8,162	117	48
Grocery Stores	541	286	169	144	5,478	2,684	8,162	117	48
AUTO DEALERS AND SERVICE STATIONS	55	9	6	6	1,621	0	1,621	3	270
New and Used Car Dealers	551	2	0	0	0	0	0	2	0
APPAREL AND ACCESSORY STORES	56	1	0	0	0	0	0	1	0
FURNITURE AND HOME FURN STORES	57	0	0	0	0	0	0	0	0
Furniture, Home Furnishings	571	0	0	0	0	0	0	0	0
EATING AND DRINKING PLACES	58	11	3	3	37	0	37	8	12

TABLE 6 (Continued)

Number of Recordable Occupational Illnesses by Type and Industry, Maine, 1990

INDUSTRY¹	SIC²	Total⁴ Cases	Total Lost Workday Cases	Cases With Days Away From Work	Days Away From Work	Days of Restricted Work Activity	Total Lost Workdays	Nonfatal Cases w/o Lost Workdays	Average Lost Workdays per Lost Workday Cases
RETAIL TRADE (Continued)									
MISCELLANEOUS RETAIL STORES	59	273	73	60	2,042	1,215	3,257	200	45
Drug Stores	591	0	0	0	0	0	0	0	0
Miscellaneous Shopping Goods	594	273	73	60	2,042	1,215	3,257	200	45
FINANCE, INSURANCE, REAL ESTATE	60-67	184	126	70	3,213	1,733	4,946	58	39
BANKING	60	79	67	22	1,246	1,053	2,299	12	34
Commercial and Stock Savings Banks	602	79	67	22	1,246	1,053	2,299	12	34
INSURANCE	63	100	64	56	2,292	639	2,931	36	46
INSURANCE AGENTS BROKERS SERV.	64	18	4	0	0	100	100	14	25
REAL ESTATE	65	2	1	0	0	32	32	1	32
SERVICES	70-89	334	144	111	2,623	2,447	5,070	190	35
HOTELS AND OTHER LODGING PLACES	70	2	0	0	0	0	0	2	0
Hotels, Tourist Courts and Motels	701	2	0	0	0	0	0	2	0
PERSONAL SERVICES	72	3	2	2	52	70	122	1	61
BUSINESS SERVICES	73	56	44	29	640	878	1,518	12	35
AUTO REPAIR SERVICES AND GARAGES	75	1	1	0	0	23	23	0	23
AMUSEMENT, RECREATION SERVICES	79	10	5	5	84	0	84	5	17
MEDICAL AND HEALTH SERVICES	80	207	62	52	1,022	764	1,786	145	29
Nursing and Personal Care Facilities	805	50	18	18	418	18	436	32	24
Hospitals	806	143	44	34	604	746	1,350	99	31

TABLE 6 (Continued)

Number of Recordable Occupational Illnesses by Type and Industry, Maine, 1990

<u>INDUSTRY</u> ¹	<u>SIC</u> ²	<u>Total</u> ⁴ <u>Cases</u>	<u>Total</u> <u>Lost</u> <u>Workday</u> <u>Cases</u>	<u>CasesWith</u> <u>Days Away</u> <u>From Work</u>	<u>Days Away</u> <u>From Work</u>	<u>Days of</u> <u>Restricted</u> <u>Work Activity</u>	<u>Total</u> <u>Lost</u> <u>Workdays</u>	<u>Nonfatal</u> <u>Cases</u> <u>w/o Lost</u> <u>Workdays</u>	<u>Average Lost</u> <u>Workdays per</u> <u>Lost Workday</u> <u>Cases</u>
SERVICES (Continued)									
LEGAL SERVICES	81	0	0	0	0	0	0	0	0
EDUCATIONAL SERVICES	82	0	0	0	0	0	0	0	0
SOCIAL SERVICES	83	2	1	1	3	0	3	1	3
MEMBERSHIP ORGANIZATIONS	86	1	1	1	8	17	25	0	25
ENGINEERING, ACCT., RESEARCH SERV.	87	49	26	19	654	695	1,349	23	52

See Footnotes at end of Table 6.

FOOTNOTES FOR TABLES 1-6;

1. Industry Division and group totals include data for industries not shown separately.

2. Standard Industrial Classification Manual, 1987 Edition.

3. The incidence rates represent the number of illnesses or lost work-days per 100 full-time employees and were calculated using the following formula:

$$\text{Rate} = (N \times 200,000) / EH$$

where **N** = number of injuries, illnesses, total cases, or lost workdays. 200,000 = base for 100 full-time equivalent workers, working 40 hours per week and 50 weeks per year; **EH** = number of exposure hours, total hours worked by all employees during the survey year.

4. Incidence rates of total cases and numbers of total cases include fatalities, in addition to lost workday cases, and nonfatal cases without lost workdays. However, because of rounding, the sum of the rates (and the sum of the numbers) for lost workday cases and nonfatal cases without lost workdays may not equal the total. Similarly, the difference between the total and the sum of the components shown may not reflect the fatality rate.

Note: DASHES (-) indicate no data reported. ASTERISKS (*) in Tables 1, 2, and 3 indicate incidence rates of cases/workdays less than 0.05 per 100 workers; in Tables 4, 5, and 6 asterisks (*) indicate numbers of cases/workdays less than 5.

Data conforming to OSHA definitions for coal and lignite mining (SIC 10) and for railroad transportation (SIC 40) were provided by the Mine Safety and Health Administration, U.S. Department of Labor, and by the Federal Railroad Administration, U.S. Department of Transportation. Data for independent contractors who perform services for construction on mining sites are also included.

APPENDIX A

Scope of the 1990 OSH Survey and Technical Notes

The 1990 OSH Injuries and Illnesses Survey relates to the following Industry Divisions in the State of Maine: Agriculture, Forestry & Fishing (SIC 01-09); Mining (SIC 10-14); Contract Construction (SIC 15-17); Manufacturing (SIC 20-39); Transportation & Public Utilities (SIC 40-49); Wholesale Trade (SIC 50-51); Retail Trade (SIC 52-59); Finance, Insurance, & Real Estate (SIC 60-67); and Services (SIC 70-89), except Private Households (SIC 88). In addition, information was received from Federal sources on the injuries and illnesses at Maine's 102 railroad and mining establishments, which are surveyed separately.

All employees (part-time, temporary, etc.) in industries listed above are covered. Excluded are self-employed individuals, agricultural employers with fewer than eleven workers, domestic employers, and federal/state/local government units.

Survey questionnaires were initially mailed to 4,057 sample units. A higher than usual proportion, 510 or 12.5 percent, as compared with 335 or 8.6 percent in 1989 were excluded because they were no longer in operation, were found not to be within the scope of the survey, were included in a report that was completed for another location, received duplicate survey forms for the same establishment, or were not deliverable by the Postal Service because of an inadequate address. One reason for the increase in the number of exclusions was the higher than usual number of closures in 1990 due to the recession. Original and follow-up mailings and/or telephone calls resulted in 3,327 usable questionnaires out of a possible 3,547 for a 93.8 percent usable response rate.

ESTIMATING PROCEDURE

Estimates of the numbers of injuries and illnesses in each sampled industry were obtained by first weighting the data for each reporting unit by the reciprocal of the sampling ratio for each industry and employment size group. Each of the sampling cell estimates was then adjusted for non-response. Finally, the aggregate data for each industry was adjusted for births by benchmarking, a form of ratio estimation using an independent determination of actual employment.

INDUSTRIAL CLASSIFICATION

Reporting units are classified into industries on the basis of their principal product or activity determined by information entered in Section III (Nature of Business) of the survey questionnaire. For a reporting unit making more than one product or engaging in more than one activity, data for the unit are included in the industry indicated by the respondent as the most important product or activity.

STANDARD INDUSTRY MIX

Because rates among industries vary greatly, caution is necessary when making comparisons between incidence rates produced for different jurisdictions. In making such comparisons, one could draw the wrong conclusion that a state with a concentration of employment in industries with high incidence rates (such as Maine) has a poor overall safety record when compared with the national rate or with rates from other states.

To overcome this bias, estimates for each state can be recalculated to a common employment base using data from the level lower than the level being compared. For example, if the desired result was an All-Industry state rate adjusted to the national mix of industries, data from the Industry Division level would be used. This process is called the Standard Industry Mix (SIM), and the formula is shown below:

$$\frac{(X_i * Y_i)}{(X_i) - X_o}$$

X_i =national employment for the i^{th} industry

Y_i =unadjusted incidence rate for the i^{th} industry

X_o =employment for industries absent from the state

By this method, a state's rates can be adjusted to the U.S. economy's mix of industries, as was done for Maine in Section IX. Remaining differences are then due to other factors.

U.S. Department of Labor
Bureau of Labor Statistics for the Occupational
Safety and Health Administration

1990 OSHA No. 200-S
ANNUAL OCCUPATIONAL INJURIES AND ILLNESSES SURVEY
(Covering Calendar Year 1990)

O.M.B. NO. 1222-0045
Approval expires 9/30/92

THIS REPORT IS MANDATORY UNDER PUBLIC LAW 91-596. FAILURE TO REPORT
CAN RESULT IN THE ISSUANCE OF CITATIONS AND ASSESSMENT OF PENALTIES.

<p>I. ANNUAL AVERAGE EMPLOYMENT IN 1990</p> <p>Enter the average number of employees who worked during calendar year 1990 in the establishment(s) covered by this report. Include all classes of employees: full-time, part-time, seasonal, temporary, etc. See the instructions for an example of an annual average employment calculation. (Round to the nearest whole number.)</p>	<p>II. TOTAL HOURS WORKED IN 1990</p> <p>Enter the total number of hours actually worked during 1990 by all employees covered by this report. DO NOT include any non-worktime even though paid sick leave, etc. If employees worked low hours in 1990 due to layoffs, strikes, fires, etc., explain under comments (Section VII). (Round to the nearest whole number.)</p>	<p>III. NATURE OF BUSINESS IN 1990</p> <p>A. Check the box which best describes the general type of activity performed by the establishment(s) included in this report.</p> <p><input type="checkbox"/> Agriculture <input type="checkbox"/> Forestry <input type="checkbox"/> Fishing <input type="checkbox"/> Mining <input type="checkbox"/> Construction <input type="checkbox"/> Manufacturing <input type="checkbox"/> Transportation <input type="checkbox"/> Communication <input type="checkbox"/> Public Utilities <input type="checkbox"/> Wholesale Trade <input type="checkbox"/> Retail Trade <input type="checkbox"/> Finance <input type="checkbox"/> Insurance <input type="checkbox"/> Real Estate <input type="checkbox"/> Services</p> <p>B. Enter in order of importance the principal products, lines of trade, services or other activities. For each entry also include the approximate percent of total 1990 annual value of production, sales or receipts.</p> <p>_____ % _____ % _____ %</p> <p>C. If this report includes any establishment(s) which perform services for other units of your company, indicate the primary type of service or support provided. (Check as many as apply.)</p> <p>1. <input type="checkbox"/> Central administration 2. <input type="checkbox"/> Research, development and testing 3. <input type="checkbox"/> Storage (warehouse) 4. <input type="checkbox"/> Other (specify) _____</p>	<p>IV. TESTING FOR DRUG OR ALCOHOL USE</p> <p>A. Did the establishment(s) covered by this report have a formal written policy to test job applicants and/or employees for drug or alcohol use during calendar year 1990?</p> <p>1. <input type="checkbox"/> No 2. <input type="checkbox"/> Yes</p> <p>B. Were any drug or alcohol tests administered at the company's request to any employees as the result of the occurrence of a recordable work-related injury or illness during calendar year 1990?</p> <p>1. <input type="checkbox"/> No 2. <input type="checkbox"/> Yes</p>	<p>V. RECORDABLE INJURIES AND ILLNESSES</p> <p>Did this establishment have any recordable injuries or illnesses during calendar year 1990?</p> <p>1. <input type="checkbox"/> No (Please complete section VII) 2. <input type="checkbox"/> Yes (Please complete sections VI and VII.)</p> <p>SEE BELOW</p>
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Complete this report whether or not there were recordable occupational injuries or illnesses.

PLEASE READ THE ENCLOSED INSTRUCTIONS

The information collected on this form will be used for statistical purposes only by the BLS, OSHA, and the cooperating State Agencies.

We estimate that it will take an average of 10-30 minutes to complete this form, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this survey, send them to the Bureau of Labor Statistics, Division of Management Systems (1220-0045), 441 G St. NW, Washington, D.C. 20212, and to the Office of Management and Budget, Paperwork Reduction Project (1220-0045), Washington, D.C. 20503.

VI. OCCUPATIONAL INJURY AND ILLNESS SUMMARY (Covering Calendar Year 1990)

- Complete this section by copying the totals from the annual summary of your 1990 OSHA No. 200.
- Leave Section VI blank if there were no OSHA recordable injuries or illnesses during 1990.
- Please check your figures to be certain that the sum of entries in columns (7a) + (7b) + (7c) + (7d) + (7e) + (7f) + (7g) = the sum of entries in columns (8) + (9) + (13).
- Note: First aid even when administered by a doctor or nurse is not recordable.

SIC _____ Sch. No. _____ C- _____ Suf _____

EDIT _____

OCCUPATIONAL INJURY CASES					OCCUPATIONAL ILLNESS CASES												
Injury-Related Fatalities DEATHS**	Injuries with Lost Workdays				Injuries Without Lost Workdays*	Type of Illness: Enter the number of checks from the appropriate OSHA No. 200 columns in the log.							Illness-Related Fatalities DEATHS**	Illnesses with Lost Workdays			Illnesses Without Lost Workdays*
	Injury cases with days away from work and/or restricted workdays	Injury cases with days away from work	Total Days away from work	Total Days of restricted work activity		Occupational skin diseases or disorders	Dust diseases of the lungs	Respiratory conditions due to toxic agents	Poisoning (systemic effects of toxic materials)	Disorders due to physical agents	Illnesses associated with repeated trauma	All other occupational illnesses		Illness cases with days away from work and/or restricted workdays	Illness cases with days away from work	Days away from work	
Number of deaths in col. 1 of the log (OSHA No. 200) (1)	Number of checks in col. 2 of the log (OSHA No. 200) (2)	Number of checks in col. 3 of the log (OSHA No. 200) (3)	Sum of days in col. 4 of the log (OSHA No. 200) (4)	Sum of days in col. 5 of the log (OSHA No. 200) (5)	Number of checks in col. 6 of the log (OSHA No. 200) (6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	
DEATHS																	

*WITHOUT LOST WORKDAYS—CASES (WITH NO DAYS LOST) RESULTING IN EITHER: DIAGNOSIS OF OCCUPATIONAL ILLNESS, LOSS OF CONSCIOUSNESS, RESTRICTION OF WORK OR MOTION (ON THE DAY OF OCCURRENCE), TRANSFER TO ANOTHER JOB OR MEDICAL TREATMENT BEYOND FIRST AID.

VII. REPORT PREPARED BY (please print or type)

NAME _____ COMMENTS _____

TITLE _____

SIGNATURE _____

AREA CODE AND PHONE _____

DATE _____

RETURN TO:
State of Maine
Department of Labor
Bureau of Labor Standards
State House Station 45
Augusta, Maine 04333
Telephone Number 207-285-6444

Complete this report for the establishment(s) covered by the description below:

LABEL PLACED HERE

APPENDIX B

SURVEY REPORTING REGULATIONS

Title 29, Part 1904, 20-22 of the Code of Federal Regulations requires that each employer shall return the completed survey form, OSHA No. 200-S, within 30 days of receipt in accordance with the instructions shown below.

INSTRUCTIONS FOR COMPLETING THE OSHA NO. 200-S FORM 1990 OCCUPATIONAL INJURIES AND ILLNESSES SURVEY (Covering Calendar Year 1990)

Change of Ownership — When there has been a change of ownership during the report period, only the records of the current owner are to be entered in the report. Explain fully under Comments (Section VII), and include the date of the ownership change and the time period this report covers.

Partial-Year Reporting — For any establishments which was not in existence for the entire report year, the report should cover the portion of the period during which the establishment(s) was in existence. Explain fully under Comments (Section VII), including the time period this report covers.

ESTABLISHMENTS INCLUDED IN THE REPORT

This report should include only those establishments located in, or identified by, the Report Location and Identification designation which appears above your mailing address. This designation may be a geographical area, usually a country or city, or it could be a brief description of your operation within a geographical area. If you have any questions concerning the coverage of this report, please contact the agency identified on the OSHA No. 200-S report form.

DEFINITION OF ESTABLISHMENT

An **ESTABLISHMENT** is defined as a single physical location where business is conducted or where services or industrial operations are performed. (For example: a factory, mill, store, hotel, restaurant, movie theatre, farm, ranch, bank, sales office, warehouse, or central administration office.)

For firms engaged in activities such as construction, transportation, communication, or electric, gas and sanitary services, which may be physically dispersed, reports should cover the place to which employees normally report each day.

Reports for personnel who do not primarily report or work at a single establishment, such as traveling salesmen, technicians, engineers, etc., should cover the location from which they are paid or the base from which personnel operate to carry out their activities.

SECTION I. ANNUAL AVERAGE EMPLOYMENT IN 1990

Enter in Section I the **average** (not the total) number of full and part-time employees who worked during calendar year 1990 in the establishment(s) included in this report. If more than one establishment is included in this report, add together the annual average employment for each establishment and enter the sum. Include all classes of employees — seasonal, temporary, administrative, supervisory, clerical, professional, technical, sales, delivery, installation, construction and service personnel, as well as operators and related workers.

Annual Average employment should be computed by summing the employment from all pay periods during 1990 and then dividing that sum by the total number of such pay periods throughout the entire year, including periods with no employment. For example, if you had the following monthly employment — Jan.-10; Feb.-10; Mar.-10; Apr.-5; May-5; June-5; July-5; Aug.-0; Sept.-0; Oct.-0; Nov.-5; Dec.-5 — you would sum the number of employees for each monthly pay period (in this case: 60) and then divide that total by 12 (the number of pay periods during the year) to derive an annual average employment of 5.

SECTION II. TOTAL HOURS WORKED IN 1990

Enter in Section II the total number of hours actually worked by all classes of employees during 1990. Be sure to include **ONLY** time on duty. **DO NOT** include any non-work time even though paid, such as vacations, sick leave, holidays, etc. The hours worked figure should be obtained from payroll or other time records wherever possible; if hours worked are not maintained separately from hours paid, please enter your best estimate. If actual hours worked are not available for employees paid on commission, salary, by mile, etc., hours worked may be estimated on the basis of scheduled hours or 8 hours per workday. For example, if a group of 10 salaried employees worked an average of 8 hours per day, 5 days a week, for 50 weeks of the report period, the total hours worked for this group would be $10 \times 8 \times 5 \times 50 = 20,000$ hours for the report period.

SECTION III. NATURE OF BUSINESS IN 1990

In order to verify the nature of business code, we must have information about the specific economic activity carried on by the establishment(s) included in your report during calendar 1990.

Complete Parts A, B and C as indicated in Section III on the OSHA No. 200-S form. Complete Part C only if supporting services are provided to other establishments of your company. Leave Part C blank if supporting services are not the primary function of any establishment(s) included in this report or if supporting services are provided but only on a contract or fee basis for the general public or for other business firms.

NOTE: If more than one establishment is included, information in Section III should reflect the combined activities of all such establishments. One code will be assigned which best indicates the nature of business of the group of establishments as a whole.

SECTION IV. TESTING FOR DRUG OR ALCOHOL USE

A. Check the appropriate box. Check "Yes" if your company had a formal written policy, during calendar year 1990, to test **JOB APPLICANTS** and/or **EMPLOYEES** for drug or alcohol use. Examples of testing policies include: "For cause", for selected jobs, random tests, as part of an annual physical, periodic tests, or testing all employees.

Drug Test — A test designed to detect the presence of metabolites or drugs in urine or blood specimens.

Drugs include opioids, cocaine, cannabinoids (such as marijuana or hashish), hallucinogens, and their derivatives. Drugs for which persons have prescriptions (whether or not the prescription was legally obtained) are excluded. Please answer part B.

B. Check the appropriate box. Check "Yes" only if an employee was actually tested for drug or alcohol use in connection with a work-related injury or illness, even if the employee was one other than the employee who was injured or became ill, during calendar year 1990. Only drug or alcohol tests administered at the request of the company, whether actually administered by the company or another organization, should be considered when answering this question.

SECTION V. RECORDABLE INJURIES OR ILLNESSES

Check the appropriate box. If you checked "Yes", complete Sections VI and VII. If you checked "No", complete only Section VII.

SECTION VI. OCCUPATIONAL INJURY AND ILLNESS SUMMARY

This section can be completed easily by copying the totals from the annual summary of your 1990 OSHA No. 200 form (Log and Summary of Occupational Injuries and Illnesses). Please note that if this report covers more than one establishment, the final totals on the "Log" for each must be added and the sums entered in Section VI.

Leave Section VI blank if the employees covered in this report experienced no recordable injuries or illnesses during 1990.

If there were recordable injuries or illnesses during the year, please review your OSHA No. 200 form for each establishment to be included in this report to make sure that all entries are correct and complete before completing Section VI. Each recordable case should be included on the "Log" in only one of the six main categories of injuries or illnesses:

1. INJURY-related deaths (Log column 1)
2. INJURIES with lost workdays (Log column 2)
3. INJURIES without lost workdays (Log column 6)
4. ILLNESS-related deaths (Log column 8)
5. ILLNESSES with lost workdays (Log column 9)
6. ILLNESSES without lost workdays (Log column 13)

Also review each case to ensure that the appropriate entries have been made for the other columns if applicable. For example, if the case is an Injury with Lost Workdays, be sure that the check for an injury involving days away from work (Log column 3) is entered if necessary. Also verify that the correct number of days away from work (Log column 4) and/or days of restricted work activity (Log column 5) are recorded. A similar review should be made for a case which is an Illness with Lost Workdays (including Log columns 10, 11 and 12). Please remember that if your employees' loss of workdays is still continuing at the time the annual summary for the year is completed, you should estimate the number of future workdays they will lose and add this estimate to the actual workdays already lost. Each partial day away from work, other than the day of occurrence of the injury or onset of illness, should be entered as one full restricted workday.

Also, for each case which is an Illness, make sure that the appropriate column indicating Type of Illness (Log column 7a-7g) is checked.

After completing your review of the individual entries on the "Log", please make sure that the "Totals" line has been completed by summarizing Columns 1 through 13 according to the instructions on the back of the "Log" form. Then, copy these "Totals" onto Section VI of the OSHA No. 200-S form.

If you entered fatalities in columns (1) and/or (8), please include in the "comments" section a brief description of the object or event which caused each fatality.

FIRST AID

Finally, please remember that all injuries which, in your judgement, required only **First Aid Treatment** even when administered by a doctor or nurse, should not be included in this report. First Aid Treatment is defined as one-time treatment and subsequent observation of minor scratches, cuts, burns, splinters, etc., which do not ordinarily require medical care.

SECTION VII. COMMENTS AND IDENTIFICATION

Please complete all parts including your area code and telephone number. Then return the OSHA No. 200-S form in the pre-addressed envelope. **KEEP** your file copy.

APPENDIX C

Recordkeeping Summary

Basic recordkeeping concepts and guidelines are included with instructions on the back of form OSHA No. 200. The following summarizes the major recordkeeping concepts and provides additional information to aid in keeping records accurately.

Determining recordability

1. An injury or illness is considered work-related if it results from an event or exposure in the work environment. The work environment is primarily composed of the following areas: 1) The employer's premises, and 2) any other locations where employees are engaged in work-related activities or are present as a condition of their employment. The employer's premises encompass the total establishment. This includes not only the primary facility, but also such areas as company storage facilities, cafeterias, and restrooms. In addition to physical locations, equipment or materials used in the course of an employee's work are also considered part of the employee's work environment.
2. All work-related fatalities are recordable.
3. All recognized or diagnosed work-related illnesses are recordable.
4. All work-related injuries requiring medical treatment, involving loss of consciousness, restriction of work or motion, or transfer to another job are recordable.

Analysis of injuries

Each case is distinguished by the treatment provided for the injury, not where the treatment was provided. Those cases in which medical treatment was provided or should have been provided are recordable; if only first aid treatment was required, it is not recordable. However, medical treatment is only one of several criteria for determining recordability. Regardless of treatment, if the injury involved loss of consciousness, restriction of work or motion, or transfer to another job, the injury is recordable.

Medical treatment. The following procedures are generally considered medical treatment. Injuries for which this type of treatment was provided or should have been provided are almost always recordable if the injury is work-related:

- *Treatment of infection
- *Application of antiseptics during the second or subsequent visit to medical personnel
- *Treatment of second or third degree burns
- *Application of sutures (stitches)
- *Application of butterfly adhesive dressing(s) or steri strip(s) in lieu of sutures
- *Removal of foreign bodies embedded in eye
- *Removal of foreign bodies from wound; if procedure is complicated because of depth of embedment, size, or location

Recordkeeping Summary (Continued)

- *Use of prescription medications (except a single dose administered on first visit for minor injury or discomfort)
- *Use of hot or cold soaking therapy during second or subsequent visit to medical personnel
- *Use of hot or cold compresses during second or subsequent visit to medical personnel
- *Cutting away dead skin (surgical debridement)
- *Application of heat therapy during second or subsequent visit to medical personnel
- *Use of whirlpool bath therapy during second or subsequent visit to medical personnel
- *Positive x-ray diagnosis (fractures, broken bones)
- *Admission to a hospital or equivalent medical facility for treatment

First Aid Treatment. First aid treatment is one-time treatment and subsequent observation of minor injuries. The following procedures are generally considered first aid treatment and should not be recorded if the injury does not involve loss of consciousness, restriction of work or motion, or transfer to another job:

- *Application of antiseptics during first visit to medical personnel
- *Treatment of first degree burns
- *Application of bandages during any visit to medical personnel
- *Use of elastic bandages during first visit to medical personnel
- *Removal of foreign bodies not embedded in eye if only irrigation is required
- *Removal of foreign bodies from wound; if procedure is uncomplicated, and is, for example, by tweezers or other simple technique
- *Use of nonprescription medications and administration of single dose of prescription medication on first visit for minor injury or discomfort
- *Soaking therapy on initial visit to medical personnel or removal of bandages by soaking
- *Application of hot or cold compresses during first visit to medical personnel
- *Application of ointments to abrasions to prevent drying or cracking
- *Application of heat therapy during first visit to medical personnel
- *Use of whirlpool bath therapy during first visit to medical personnel
- *Negative x-ray diagnosis
- *Observation of injury during visit to medical personnel

The following procedure, by itself, is **not** considered medical treatment: Administration of Tetanus Shots or Boosters. However, these shots are often given in conjunction with more serious injuries; consequently, injuries requiring these shots may be recordable for other reasons.

**APPENDIX D: Total Case Incidence Rates
For Selected States and the U.S., 1989**

<u>STATE</u>	<u>Total Cases</u>	<u>Total Lost Workday Cases</u>	<u>Total Lost Workdays</u>
Alabama	9.5	4.2	76.8
Alaska	12.3	5.9	82.5
American Samoa	2.5	1.8	28.1
Arizona	8.7	3.9	77.8
Arkansas	9.8	4.5	84.2
California	8.8	4.4	77.1
Connecticut	9.1	4.2	81.3
Delaware	6.4	3.2	61.8
Florida	8.3	3.8	69.6
Guam	3.9	2.8	30.7
Hawaii	11.4	6.2	109.0
Indiana	9.9	4.4	72.9
Iowa	10.1	4.5	85.4
Kansas	10.0	4.3	88.3
Kentucky	9.7	4.8	91.4
Louisiana	7.4	3.5	90.4
MAINE	14.5	7.4	177.6
Maryland	7.5	3.9	64.3
Michigan	11.0	4.9	100.1
Minnesota	8.3	3.9	75.1
Mississippi	9.9	4.3	69.2
Missouri	9.8	4.3	76.4
Montana	8.6	3.7	94.7
Nebraska	10.0	4.4	84.4
Nevada	10.9	5.2	110.0
New Mexico	8.3	4.2	109.4
North Carolina	8.2	3.5	55.3
North Dakota	6.7	2.5	48.6
Oklahoma	8.7	4.0	85.1
Oregon	10.6	5.2	104.7
Peurto Rico	4.7	3.9	141.7
Rhode Island	10.4	5.7	148.8
South Carolina	8.1	3.4	58.2
Tennessee	9.5	4.3	74.0
UNITED STATES	8.6	4.0	78.7
Utah	9.8	3.9	59.3
Vermont	10.0	4.9	91.3
Virgin Islands	1.9	1.5	34.8
Virginia	8.2	3.9	63.0
Washington	11.3	5.1	87.1
West Virginia	9.0	4.8	113.7
Wyoming	7.5	3.4	74.6

NOTE: Caution should be taken when comparing rates among states in this table due to the fact that the rates are not adjusted to the National mix of industries. States with a higher concentration of businesses in hazardous industries will obviously show an increased incidence rate as compared to a state with a lower concentration of hazardous industries. (See page 57.)

APPENDIX E: RELIABILITY OF ESTIMATES

Due to technical problems encountered by the U.S. Bureau of Labor Statistics in converting Variance programs to personal computer systems, the relative standard errors necessary to produce Text Table N were not available. Corrections will be made and the data will be available next year.

APPENDIX F: GLOSSARY

Average lost workdays per lost workday case: The number of lost workdays divided by the number of lost workday cases.

Days away from work: The number of days (consecutive or not) the employee would have worked but was absent from work because of occupational injury or illness. The number of days away from work does not include the day of injury or the onset of illness.

Days of restricted work activity: The number of workdays (consecutive or not) on which, because of injury or illness, one or more of the following occurs: (1) the employee was assigned to another job on a temporary basis; (2) the employee worked at a permanent job less than full time; or (3) the employee worked at a permanently assigned job but could not perform all duties normally connected with it.

Employment-size Group: Establishments within a specified range of average employment.

Establishment: A single physical location where business is conducted or where services or industrial operations are performed. Distinctly separate activities are performed at a single physical location, such as construction activities operated from a separate establishment.

First-aid treatment: A one-time treatment and subsequent observation of minor scratches, cuts, burns, splinters, etc., which do not ordinarily require medical care. (See Appendix C.)

Incidence rate: The number of injuries and illnesses, or lost workdays experienced by 100 full-time workers. (See Section II.)

Industry Division - see Standard Industrial Classification

Industry Group - see Standard Industrial Classification

Lost workdays: The sum of days away from work and days of restricted work activity (see above). The number of lost workdays does not include the day the injury occurred or the day the illness was discovered.

Medical treatment: Includes treatment administered by a physician or by registered professional personnel under the standing orders of a physician. However, medical treatment does NOT include first-aid treatment (one-time treatment and subsequent observation of minor scratches, cuts, burns, splinters, etc.) which does not ordinarily require medical care even though provided by a physician or registered professional personnel. (See Appendix C.)

APPENDIX F (CONTINUED)

Occupational fatality: Death resulting from a traumatic accident or an exposure in the work environment.

Occupational illness: Any abnormal condition or disorder, other than one resulting from an occupational injury, caused by exposure to environmental factors associated with employment. It includes acute and chronic illnesses or diseases which may be caused by inhalation, absorption, ingestion, or direct contact, and which can be included in the categories listed below. The following categories are used by employers to classify recordable occupational illnesses:

(7a) Occupational skin diseases or disorders, for example: contact dermatitis, eczema, or rash caused by primary irritants and sensitizers or poisonous plants; oil acne, chrome ulcers; chemical burns or inflammations; etc.

(7b) Dust diseases of the lungs (pneumoconioses), for example: silicosis; asbestosis; coal worker's pneumoconiosis; byssinosis, siderosis; and other pneumoconioses.

(7c) Respiratory conditions due to toxic agents, for example: pneumonitis, pharyngitis, rhinitis or acute congestion due to chemicals, dusts, gases or fumes; farmer's lung; etc.

(7d) Poisoning (systemic effects of toxic materials), for example: poisoning by lead, mercury, cadmium, arsenic, or other metals; poisoning by carbon monoxide, hydrogen sulfide or other gases; poisoning by benzol, carbon tetrachloride, or other organic solvents; poisoning by insecticide sprays such as parathion, lead arsenate; poisoning by other chemicals such as formaldehyde, plastics and resins; etc.

(7e) Disorders due to physical agents (other than toxic materials), for example: heatstroke, sunstroke, heat exhaustion and other effects of environmental heat; freezing, frostbite and effects of exposure to low temperatures; calsson disease; effects of ionizing radiation (isotopes, xrays, radium); effects of nonionizing radiation (welding flash, ultraviolet rays, microwaves, sunburn); etc.

(7f) Disorders associated with repeated trauma, for example: noise-induced hearing loss; synovitis, tenosynovitis, and bursitis; Raynaud's phenomena; and other conditions due to repeated motion, vibration, or pressure.

(7g) All other occupational illnesses, for example: anthrax; brucellosis; infectious hepatitis; malignant and benign tumors; food poisoning; histoplasmosis; coccidioidomycosis; etc.

APPENDIX F (CONTINUED)

Occupational injury: Any injury such as a cut, fracture, sprain, amputation, etc., which results from a work accident or from exposure involving a single incident in the work environment.

Publishable industry level: An industry level (Division, Group, etc.) for which (1) average employment exceeded 1,500 during the survey year, and (2) no one firm or small number of firms so dominated the industry so as to jeopardize the guaranteed confidentiality of OSH Survey data.

Recordable occupational injuries and illnesses: Any occupational injuries or illnesses which result in (1) FATALITIES, regardless of the time between the injury and death, or the length of the illness; (2) LOST WORKDAY CASES, other than fatalities, that result in lost workdays; or (3) NONFATAL CASES WITHOUT LOST WORKDAYS, which result in transfer to another job or termination of employment, require medical treatment, or involve loss of consciousness or restriction of work or motion. This third category also includes any diagnosed occupational illnesses which are reported to the employer but are not classified as fatalities or lost workday cases.

Report form: The OSHA No. 200-S survey questionnaire used as the data collection vehicle for the OSH Survey. (See Appendix B.)

SIC - see Standard Industrial Classification

Standard Industrial Classification: A classification system developed by the Office of Statistical Standards, Executive Office of the President/Office of Management and Budget for use in the classification of establishments by type of activity in which they are engaged. Each establishment is assigned an industry code for its major activity which is determined by the product, group of products, or services rendered. Establishments may be classified in 2-digit, 3-digit, or 4-digit industries, according to the degree of information available. An industry division is the broadest level (other than the total private sector) at which estimation is performed in the OSH Survey in Maine, and is identified by a range of SIC codes. (For example, SIC's 20 through 39 represent the Manufacturing Division). An industry group is identified by one 2-digit code.

APPENDIX G: COMMENTS FORM

Your comments about this publication will help us make improvements. We are interested in any feedback concerning its usefulness, accuracy, organization, and completeness. Requests for additional copies will be filled subject to availability (See Appendix H). Requests for further details on this subject should be sent to the Bureau Director at the address below. These requests may be denied due to confidentiality restrictions.

Please indicate your position or title:

How suitable is this material for your own requirements?

Very suitable _____

Suitable _____

Not suitable _____

What information not presently covered should be included?

What information presently covered should be excluded?

Additional comments:

Please return this page to: Maine Department of Labor
Bureau of Labor Standards
Research and Statistics Div.
State House Station #45
Augusta, Me 04333

If you wish a reply, please include your name and mailing address.

APPENDIX H: ORDER FORM

The following items are available without charge from:

Maine Department of Labor
Bureau of Labor Standards
Research & Statistics Division
State House Station 45
Augusta, Me 04333

ANNUAL PUBLICATIONS (contact this office for latest year available):

- _____ Occupational Injuries and Illnesses in Maine
- _____ Characteristics of Work-Related Injuries & Illnesses in Maine
- _____ Census of Maine Manufactures
- _____ Directory of Maine Labor Organizations
- _____ Maine Construction Wage Rates
- _____ Labor Relations in Maine

OSHA RECORDKEEPING MATERIALS:

- _____ Supplementary Record of Occupational Injuries & Illnesses, OSHA No. 101. Note: You may use copies of your Workers' Compensation reports in place of the OSHA No. 101 for those cases that are OSHA recordable.
- _____ Log & Summary of Occupational Injuries & Illnesses, OSHA No. 200
- _____ Poster: Safety and Health Protection on the Job
- _____ Recordkeeping Requirements Guidelines

NOTE: Due to proposed recordkeeping revisions, additional recordkeeping guideline booklets have not been ordered. However, we have a large supply of the Brief Guides.

- _____ A Brief Guide to Recordkeeping Requirements

Company's emphasis on safety pays off (Farkas, Tom) (Kennebec Journal 5/14/1992) ●
(Available on request-please include the following citation: WC115-BRC-10-210.pdf)

To obtain items available on request, or to report errors or omissions in this history, please contact:
[Maine State Law and Legislative Reference Library](#)

Testimony of John McKernan before Blue Ribbon Commission
May 15, 1992

Sen. Hathaway: Governor, we certainly appreciate your coming here and testifying before us today and I haven't had a chance to read your entire statement but what I have read of it and what I've heard from you sounds very good and I'm glad that you've taken the position, knowing full well that you probably have some opinions of your own as to how we will draft a new workers' compensation law that you look to us to do it and just give us some guidelines. And I want to assure you that we have already hired a consultant, or just recently hired a consultant who will be checking with 2 other consultants, all of whom are known throughout this nation and Canada as well. And we expect a report back from most of them in June on just what you mentioned, a survey of all of the states in the union as well as some of the problems with Canada to see just what would be an ideal system. To be sure we are going to give a considerable amount of weight to the Michigan group, I think they are off to a good start at least as far as we can tell at the present time, and the fact that they have labor and management working together I think is a giant step in the right direction.

I guess all I want to ask of you Governor, is that after we submit our report, which will probably be closer to the first of September than the first of August, would the timetable be then that it would go immediately to the Legislature and in the special session and to pass or not pass within a reasonable short period of time. Not that I'm trying to work for a short period of time maybe,...

Gov. McKernan: I am.

(Laughter in room).

Sen. Hathaway: ...or a longer period of time.

I think you are and I think Speaker Martin and President Pray are too.

Gov. McKernan: Senator, the only way I can answer that question is to say that my intent all along as I've discussed I think with all of you is to give a couple of weeks for people to digest the report but that as soon as we receive it to try to call a session for a couple of weeks after that, I think 2 weeks is plenty of time, frankly I'm not interested in a lot of people trying to figure out how they could tinker with it or change it. The intent of having all of you do this was to get people in and to get politics out of it and to adopt pretty much in toto what the 4 of you come up with, so I would have to call the legislature

back during the middle of September and I've talked with the Speaker and the President, and they don't have a lot of control over how long their members want to talk about it but I would hope it could be done fairly quickly once they began.

Sen. Hathaway: I have just one final question. I assume that with the carte blanche mandate that we have, that if we change the administration to a different department, or we make changes in insurance law and so forth, would that be within the bounds of what we're supposed to do--assuming its related to workers' compensation.

(Laughter)

Gov. McKernan: My view is that the staff president would try to get at those guys at resource agencies.

(Laughter)

I'm sure that that is ...

Gov. McKernan: I really view what we have done as something that ought not to be viewed as precedent setting because I think most of us involved in the creation of the Blue Ribbon Commission believe that for all intents and purposes we have given you a blank check to do what you think is right and we have pretty much said before we even see what your conclusion is, that we're going to accept it. So, ah, as far as I'm concerned, I think I'm protected constitutionally, you can't boss the Office of Governor so other than that we're going to be accepting whatever it is (laugh) you can come up with that would be within the bounds of (last word drowned out, could be "reason").

(Panelist): Thank you very much. I do appreciate your being here and giving out your thoughts. I would like to just get to the end of one aspect of what your _____

I know all of us and I'm sure I can speak for all of us ... in our minds or wondering if we could draft one item one way or the either



STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE
04333

JOHN R. MCKERNAN, JR.
GOVERNOR

TESTIMONY OF
MAINE GOVERNOR JOHN MCKERNAN

TO THE BLUE RIBBON COMMISSION
ON WORKERS' COMPENSATION

AIRPORT MANAGER'S CONFERENCE ROOM
PORTLAND INTERNATIONAL JETPORT, PORTLAND, MAINE

Friday, May 15, 1992, 1:00 p.m.

Chairman Dalbeck, Chairman Hathaway, Commission Members: Thank you for allowing me the opportunity to testify this afternoon.

Normally, I refrain from testifying directly to our citizen commissions. I believe it is best for committees made up of distinguished citizens like you to have the opportunity to take testimony and make decisions independent of the views I may hold as your governor -- and independent from the political forces that grasp Augusta.

Last year, though, I testified before the Commission on Base Closure and Defense Realignment to protest the decision to close Loring Air Force Base. More than 6,000 jobs critical to the Aroostook County economy were at stake then, and our State Planning Office estimated the sustained impact at more than 18,000 jobs.

I have taken the extraordinary step of requesting time to testify today because your task -- really, your challenge -- holds perhaps even more potential to affect job creation and cause long-term economic consequences than the Defense Department's Loring decision. I do not envy your task, but I respect you for meeting our State's call. And I hope today to more clearly define the crucially important aspects of your deliberation on our workers' compensation system.



For the better part of the last decade, Maine has struggled beneath the burden of a workers' compensation system that is out of control. Maine workers have been hurt. Maine businesses have pulled up their roots and fled the state -- or worse, closed entirely. Many Maine jobs have been lost. And last summer, at the height of the storm surrounding workers' compensation, state government itself came to a standstill. This is an issue that affects every worker, every business in Maine -- and so it affects us all.

Yet despite all of our efforts for reform, Maine's workers' compensation costs remain triple the national average, and our system threatens to disintegrate. Clearly, something must be done.

And on that point, finally, it appears that everyone now agrees, but it is not enough to agree that action must be taken. No, we must agree to take the proper action.

Over the past ten years, the battle over workers' compensation has raged between three major groups: organized labor; the insurance companies; and the employers. Each has important points to make, solutions to offer, and concerns to raise. This Commission has already heard from representatives of these groups, and in the coming weeks more will have their chance to speak with you. Their knowledge and experience gives them a unique perspective, and you are wise to take their views into account.

But there is another group, a silent group, that also has interest in our workers' compensation debate: the general public. Our citizens do not have consultants, lobbyists or high-priced attorneys who will appear before you to represent their interests. And that is why I have chosen to speak before you today to emphasize that our workers' compensation solution must not be a business solution, a labor solution, an insurance solution. It must be a solution that meets the needs of our state, that works for Maine, that protects our citizens.

And that brings me to a concern. We have waited a long time -- too long -- for a solution to our workers compensation crisis. I believe this Commission has a great opportunity to act wisely, act boldly, and offer solutions that are right for our state.

But my fear is that so many are eager to fix the workers' compensation system "once and for all" that this Commission will be urged to accept a solution whether or not that solution gets to the root of the problem -- as opposed to shifting the burden to others, and especially to the unsuspecting taxpayers of our state.

Testimony of Governor McKernan
Blue Ribbon Commission on Workers Compensation
May 15, 1992, Page 3

I am confident that the interests of business, labor and the insurance industry that I spoke of earlier will be well-represented before this Commission. But who will speak for the taxpayers? We must not adopt a plan that places our citizens at risk.

Earlier this week, you heard testimony from the Acting Superintendent of Insurance, Richard Johnson. Superintendent Johnson explained that a workers' compensation rate case is presently before the Bureau of Insurance. The decision in that rate case was initially scheduled for May 1, 1992, but was delayed until after the November elections by Legislative action, to provide, according to bill sponsors, the opportunity to set rates on the basis of reforms we hope will be adopted in September.

I would like to make clear, however, that all of the evidence in the rate case has already been taken. Without Legislative action to reform the system, the case is already closed. It is important that the Commission understand the full extent of this rate decision. I urge you to call the Superintendent back to testify again, so you can ask him directly about his conclusions on the evidence presented.

Let me be very clear: unless the reforms you propose, and the Legislature adopts, achieve significant cost savings, a higher rate will go into effect unabated. Maine businesses will stagger under even higher costs. Maine insurance companies will continue to struggle in our non-competitive market. Maine workers will continue to be poorly served by our system. And Maine citizens -- each of them -- will be ripped off by a system that serves no one well.

Maine's costs are already too high -- triple the national average. We cannot allow them to rise further. We will ensure a balanced system only by cutting costs. Any other recommendation will only postpone the failure of our workers' compensation system -- and set us up for a default that would wound Maine's economy for decades.

I make this point because I am concerned that the Commission's proposal for a new system could include a state fund, or some other mechanism backed by Maine taxpayers.

In adopting a state fund, we must recognize from the onset that a volatile insurance market carries some risk of loss -- and that with a state fund, that risk can fall to state taxpayers. Because rates are set only periodically, and those rates are based on projected costs, we can not guarantee continued solvency for a state fund. And believe me, even the best projections can be wrong! I fear that if our experience does not match our expectations, by the time we set new rates, a state fund could be losing money on its policies.

A major, multi-line insurance company with interests in several states can insulate itself from losses in any one line in one state. A new insurance mechanism set up to write just one line -- workers' compensation -- would not have enough available capital to protect itself from unlimited losses. And ultimately, Maine taxpayers could be forced to divert tax funds from important government interests like education and human needs to workers' compensation.

I recognize that proponents of a state fund want to restore competition to our workers' compensation insurance market. And I agree: we need to restore competition to the market. But to do so at the expense of state taxpayers would be a mistake that sets us up for a failure*akin, on the state level, to the Savings and Loan bailout.

No, the answer to workers' compensation is not the creation of another state bureaucracy subject to the whims of politics. Who really believes that the State can better manage the insurance business than the private sector?

Instead, we must reduce costs, and give the private sector the tools they need to solve the problem. The private insurance market offers more creativity and flexibility than the State, without putting our taxpayers at risk. This, I believe, accomplishes our goals safely.

Allow me, then, to offer a different option. I understand that this Commission has heard testimony regarding the potential to create new self-insurance pools to supplement, or even replace, the insurance that is presently written in Maine's residual market. By broadening self insurance in this manner to include heterogeneous groups, capitalized over a period of time and guaranteed by an overarching guarantee by others in the system, we are thereby restructuring the system to provide better and less expensive insurance -- while spreading the risk from losses, safely and, I believe, fairly -- among those who benefit from this law.

Self-insurance could become an important component of any potential workers' compensation solution, and I hope that this Commission will investigate this option further to determine steps necessary to implement such a plan. Expanding this option should create the kind of competition needed in our workers' compensation insurance market -- without placing all of our taxpayers at risk.

I have asked Superintendent Johnson to assist the Commission in investigating and developing this and any other options aimed at restoring competition to our insurance market. Because I feel that the method we choose to service the residual market can be an important tool to control losses, I have also asked the Superintendent to recommend changes that will restore incentives for loss control among servicing carriers.

I understand that a number of our Workers' Compensation Commissioners have suggestions for procedural improvements to our current system. I have asked them to submit their suggestions to me in writing, and I can share their ideas with you.

I hope the Commission will call on Superintendent Johnson or other professionals to make a full assessment of a new system, both to identify potential problems and anticipated costs. In the present rate case, cumulative losses in the residual market for policy years 1988, 1989 and 1990 range from \$48 million to \$88 million, to use the most conservative estimates available. As you know, the insurance industry claims that their losses are even greater.

We must be sure that we incorporate in our plan real reductions in cost, or we risk creating a system dangerously out of balance -- with the potential of huge, unfunded liabilities. Unless we are prepared to revert to common-law remedies, these deficits would need to be covered, or we would place our injured workers at risk. Without a guarantor, no money would be available to cover claims, none to pay medical bills for injured workers -- none to pay lost wages. We can not allow that to happen.

But if we adopt a state fund, who will cover these costs? Maine businesses, already paying among the highest rates in the nation, cannot. Insurance companies, which have covered these costs in the past, would leave the state rather than cover them again. So who is remaining? The only remaining deep pocket is the Maine taxpayer -- and we can not allow our legacy to be a taxpayer bail-out of workers' compensation.

Nor do I take comfort in the idea that a different insurance mechanism will somehow protect the taxpayers. If we adopt a new system with the present costs and the present premiums, the new system will fail. It will not fail tomorrow, and it probably won't fail next year, but eventually, it will fail.

When it does, taxpayers will not be protected -- they will be stuck with the tab. We must keep our promise to injured workers -- and we must not spread those costs to Maine taxpayers. That is why I emphasize, once again, that the solution this Commission proposes must reduce costs. It must also fairly balance those costs.

You have already heard the presentation by the ad-hoc Labor-Management Group in favor of adopting Michigan's plan. I applaud that group for its thorough work, and for the atmosphere of cooperation it has brought to these discussions. The decision that faces this Commission, however, is much more than just an issue of labor and management. It is an issue that will affect the economic future of this State and each and every citizen who works or pays taxes in Maine.

The work of the ad-hoc group, and their advocacy of the Michigan plan, is an excellent starting point for our debate. Members of that group have told me that they considered a number of states before finally settling on Michigan. The group also made clear that the existence of a state fund in Michigan was ultimately an important factor in their decision.

Settling in this way on a state fund system like Michigan's without examining all of the options is unwise, because it assumes that Maine taxpayers should accept the risk of workers' compensation losses as a first step toward a workers' compensation solution -- when in fact it only addresses the insurance crisis, and should be only a last resort.

As I explained earlier, I believe a state fund has gained support as a means of restoring competition to the insurance market -- something that can be remedied in other ways, such as self-insurance by heterogeneous groups.

I hope that the Commission will review the laws and systems in several of the states that the ad-hoc group ultimately chose from, including those in Wisconsin, Maryland, Oregon and Michigan. Once again: we must not build our workers' compensation system at the expense of Maine taxpayers.

Nor can we be sure that adopting the law of another state will ensure the same results in Maine. I believe you have already heard testimony about the impact of the workers' compensation "culture", and how the experience of different states can be dramatically influenced by that state's "culture". To understand how the law of another state will actually work in Maine, it will be necessary to delve into the intricacies of the entire workers' compensation system -- loopholes and personalities included -- a daunting task indeed. I urge you to find actuarial experts to assist you in this endeavor.

This investigation is critical regardless of the law being proposed for adoption -- regardless of the existence of a state fund, as in Michigan's law, or the lack of a state fund, as, for example, in Wisconsin. Without such knowledge, and an in-depth understanding of a state's workers comp culture, it will be impossible to predict the success of the new law in Maine.

In conclusion, allow me to summarize the major points I believe you must consider in developing a new workers' compensation solution:

- First, you must cut costs -- dramatically -- to bring workers' compensation insurance in line with other states.
- You must take into consideration the pending rate decision -- and the effect your solution will have on Maine employers.

- You must ensure a system that properly balances costs between the major players.
- You must build a system that meets the broad goals of workers' compensation: fair benefits, a straightforward system of appeal, and an understandable law.
- You must also incorporate the intricacies of insurance: processing and payment of claims, while ensuring that all accounts are serviced well.
- You must be prepared to adopt an entirely new method of providing insurance to employers in the residual market.
- And finally, you must -- especially in light of the many interests who will testify before you -- you must keep in mind your primary responsibility to the taxpayers of Maine.

It is essential that you measure the testimony you hear, and your final analysis, against these fundamental objectives. I cannot overstate the importance of your challenge. If you are successful, Maine employers will again be able to compete nationally and worldwide. Maine workers will work free of the burdens of our current comp law -- and ensured of fair treatment if injured. Maine's job market will grow. And Maine's insurance market will rebuild itself.

But without strong action by this Commission -- if you fail to reduce the costs of the workers' compensation insurance system, and confront the issue of future deficits, then you will have failed to meet both your statutory objectives, and your most essential responsibilities to the citizens of Maine.

I am confident that you will succeed, and stand ready to do everything in my power to help you meet this challenge.

Thank you.

Copycat comp may not work in Maine, McKernan says (Associated Press) (Bangor Daily News, 5/16-17/1992) ●

(Available on request-please include the following citation: WC115-BRC-10-221.pdf)

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Employers oppose Michigan comp plan (Associated Press) (Bangor Daily News, 5/16-17/1992) ●
(Available on request-please include the following citation: WC115-BRC-10-222.pdf)

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MAINE VERSUS MICHIGAN

ESTIMATED EFFECT OF REPLACING MAINE LAW WITH MICHIGAN LAW

<u>TYPE OF INJURY</u>	<u>PERCENT OF LOSSES</u>	<u>VARIATION OF EFFECT</u>	
Fatal	1.6%	-70.0%	-80.0%
Permanent Total	2.7%	-50.0%	-60.0%
Permanent Partial	44.8%	50.0%	40.0%
Temporary Total	10.9%	-20.0%	-30.0%
<u>Medical</u>	<u>40.0%</u>	<u>-5.0%</u>	<u>-10.0%</u>
Total	100.0%	15.8%	7.8%

MAINE VERSUS MICHIGAN

KEY DIFFERENCES IN BENEFITS

MAINE

MICHIGAN

FATAL

Escalation— 5% cap

NO escalation

Benefit, widows & others
max: life or remarriage

max: 500 weeks

\$3,000 incidental compensation

NO incidental compensation

Second Injury fund: 100 x SAWW
(no dependents)

NO provision

PERMANENT TOTAL

Minimum: \$25
Maximum: 136.014% SAWW

Minimum: None
Maximum: 90% SAWW

Escalation— 5% Cap
(beginning on 3rd anniv of injury)

NO escalation

PERMANENT PARTIAL

Maximum: 520 weeks

Duration as per schedule
or
For period of wage loss for
non-schedule.
(NO stated time limit)

Minimum: None
Maximum: 136.014% SAWW

Minimum: 25% SAWW
(Scheduled injuries only)
Maximum: 90% SAWW

TEMPORARY TOTAL

Waiting Period/Retro: 3 days/14 days

Waiting Period/Retro: 7 days/13 days

Escalation— 5% Cap
(beginning on 3rd anniv of injury)

NO escalation

Minimum: \$25
Maximum: 136.014% SAWW

Minimum: None
Maximum: 90% SAWW

**STATEMENT
OF THE
AMERICAN
INSURANCE
ASSOCIATION**

TESTIMONY
OF
BRUCE C. WOOD
COUNSEL
AMERICAN INSURANCE ASSOCIATION
BEFORE THE
WORKERS' COMPENSATION BLUE RIBBON COMMISSION

PORTLAND, MAINE
MAY 15, 1992



The American Insurance Association is a national trade organization of casualty insurers.

PROFILE

The American Insurance Association is a full-service trade organization of casualty insurance companies. In its present form, the association combines three earlier organizations. One of those, the former National Board of Fire Underwriters, was organized in 1866, making it one of the oldest trade associations in the nation.

The various departments provide members with up-to-date intelligence on legislative, regulatory, judicial and technical developments relating to our industry. The AIA also maintains liaison with insurance regulators, federal and state lawmakers, other state and federal government officials, insurance and non-insurance industry groups and media—supplying information and assistance on issues of mutual concern.

A countrywide system of regional offices and local legislative counsel ensures prompt and rigorous attention to casualty insurance matters. At the same time, technical specialists from disciplines as diverse as law, economics and engineering educate members and outside publics on developments that may affect the industry and its services to the insurance-buying public.

Mr. Chairman,

I am Bruce Wood, counsel with the American Insurance Association. AIA welcomes the opportunity to share with this Commission its views on the necessary elements for effective reform of Maine's workers' compensation system.

AIA is a national trade association of property/casualty insurers. Our members not only write a substantial share of workers' compensation insurance nationally, but include two of the three remaining writers in Maine. Our members have an abiding interest in the health of our states' workers' compensation systems, an interest in the case of Maine which cannot be overstated. Where there are problems with a workers' compensation system, AIA seeks to work with those who share our commitment to an effective workers' compensation system to correct those shortcomings. We look forward to working with this Commission in devising a means by which Maine's system can once again achieve the balance necessary to assuring this state's workers' compensation law serves the interests of those it was designed to serve -- employees and employers.

There are several major areas on which I intend to focus, because they are inseparably part of the Commission's examination of workers' compensation and because they are issues on which

others have commented. These are a need to address the horrific residual market problem which hovers like a sword of Damocles over employers as well as insurers, additional changes necessary to the benefit system, and rating. There also has been a recommendation to adopt the Michigan law, and we will comment on this, as well.

Before turning to the specifics of what reforms Maine needs to adopt, it is important to recognize that a law does not exist in a vacuum; it is not merely words imprinted on paper. Rather, it but one aspect of a complex of practices formed by attitudes, and expectations which together breathe life into mere words and shape the law in its broader sense. This recognition is critical to understanding the limits of importing other state statutes, as well as to devising solutions which will actually work in Maine.

It is also important in understanding that Maine's workers' compensation problems run deeper than the imperfections of a specific section in a statute -- that they are attitudinal -- and that ultimately only with a change in this fundamental respect can there be any hope of returning stability to system costs and to the insurance market. Yet, this is often the more difficult aspect of improving a system, because it presupposes a change in the behavior of parties, some of whom may ardently believe they have an immutable stake in preserving the current way business is done -- however imperfectly -- and that to create different

expectations means changing behavior; and that is more threatening than living uncomfortably with the status quo. So, instead of taking the bold steps necessary to correct a system's imbalance, everyone finds ways to avoid the more difficult steps, while adopting changes which might produce only peripheral improvements -- the result of which is further recrimination when the new law fails to produce the intended result. All the while, the system continues to deteriorate.

In addition to altering expectations and attitudes, there are two threshold questions to be addressed. First, a conscious agreement is needed on the balance between benefits and cost to employers. The system's design should bear some relation to this "balance." Having decided the nature of the system, employers need to finance it. Second, there should be agreement on the mechanism for financing the benefit system, whether through the private insurance market, self-insurance, a state fund, or some combination thereof, recognizing that regardless of which financing approach is chosen, the costs must be underwritten by the employers.

If insurance is one means through which benefits are to be secured, employers must commit to rate levels which are adequate to cover costs and to provide insurers a reasonable rate of return on their investments over time. This has been a singular failure of the Maine system over the past decade, although the

level of rate inadequacy now is far lower than it has been.

Higher rates, in and of themselves, are not the answer. Higher rates are merely the messenger; the message is excessive costs. Until the systems's cost-drivers are better controlled, there cannot be a stable insurance environment; there will not be the necessary support for adequate rates, and insurers will not have the confidence of committing capital to the long-tailed line of business which is workers' compensation. AIA seeks to work with this Commission and the business community to resolve the underlying problems with the Maine system. It is in no one's interest -- not employers who finance the system, injured employees who depend on a fair level of compensation expeditiously delivered, or insurers for which a healthy economic environment is a prerequisite to a vibrant, competitive insurance environment -- for Maine's critically important social insurance system for injured workers to remain dysfunctional.

System Reforms

So, our focus is in fixing the system. In evaluating the reforms that should be made to Maine's system, as important as specific changes might be, more important is the approach taken in making them. Only in this way can there be change which alters expectations and behavior, through which meaningful reform

is realized.

Litigation: In this respect, much has been said about the extent of litigation in the Maine system. Although any litigation is unfortunate in view of workers' compensation's promise to provide benefits expeditiously without the need for an attorney, litigation is but a symptom of a fundamental systemic problem -- that of uncertainty of result which is the product of statutory and decisional law as well as administrative practice. This uncertainty infects the insurance environment, as well, as insurers find it more difficult to predict the ultimate cost of an injury.

It is statutorily grounded to the extent the law affords an excessive number of decisional points, rather than being self-executing. Greater subjectivity woven throughout a statute's fabric will inherently lead to more disagreements -- and the need (perceived or real) for attorney involvement. Typically, a state's method for delivering permanent partial disability benefits is laden with subjectivity which produces excessive litigation -- litigation over loss of wage-earning capacity and the reemployability of the injured worker. The key policy approach is to reduce the number of decisional points -- gates through which parties must pass -- thereby lending greater objectivity to compensation determinations, while preserving a balance which affords an injured employee a level of compensation

which is not only fair but fairly delivered. Use of the AMA Guides for the Evaluation of Permanent Impairment provides a sound, objective basis for ascertaining permanent partial disability, from which objective adjustments can be made in delivering a fair level of PPD benefits. Maine has now adopted the AMA Guides, but the Commission should study the manner in which they are being used to determine whether further adjustments need to be made to inculcate PPD determinations with greater objectivity.

Litigation is decisionally based to the extent that an agency's adjudicators and the judiciary provide either insufficient or inconsistent guidance in interpreting the statute, or extend the statute's intent to unanticipated bounds. Again, the uncertainty of result which this trend produces is more gasoline fueling the litigation engine, as parties on both sides are compelled to seek yet one more "clarification" of the statute's intent. Therefore, assuring that agency adjudicators are well-trained and are faithful to the statute's intent is essential to reducing litigation; over time both parties will have more confidence in their decisions, leading to fewer appeals to the courts. We understand that there is at very least a perception that Maine's adjudicators are not fairly applying the statute. The Commission should study whether this is, in fact, the case. If so, it should recommend steps to re-qualify current adjudicators.

Medical Costs: Medical costs nationally are the fastest growing element of workers' compensation, growing faster even than medical costs under other payment systems. Workers' compensation is "first dollar" coverage, there being no deductibles or co-payments which are customary under other health care programs. Because of fewer constraints on reimbursement under workers' compensation, charges under this program may be used to offset reduced reimbursement under other payment systems. Further, there is an incentive to shift costs attributable to the health care system into workers' compensation. To control medical costs, AIA recommends several steps:

(1) An effective fee schedule -- Fee schedules exist in 26 states, although their effectiveness may vary, depending on their comprehensiveness, reimbursement level, and exceptions. Maine has enacted authority to set maximum charges, although it is questionable how effective will be the standard of reimbursement. This is because Maine allows reimbursement at a "usual and customary" rate -- a standard which does not control costs so much as it does track them. The Commission should look to other alternatives which would better control costs, as well as being as easily administered as possible.

(2) Managed Care -- The statute should not provide any impediments to carriers entering into managed care arrangements, allowing negotiation of a better price and assuring improved

coordination and delivery of medical services. Importantly, where an insurer has entered into a managed care arrangement, delivery of medical services, including physician selection(s), should be governed by the terms of the contract. In order to assure that employees receive quality medical treatment, the agency should be authorized to certify MCOs.

(3) Treatment Guidelines -- Unlike fee schedules, the science on treatment guidelines is far less developed. Although the various medical disciplines may provide treatment guidelines, their application to workers' compensation may or may not be appropriately tailored. No state to my knowledge has adopted comprehensive guidelines, although several are working toward this end.

Settlements: The frequency of lump sum settlements is another symptom of more fundamental problems in a workers' compensation system. Where there otherwise is unpredictability of result and liability, parties seek to monetize this uncertainty through lump summing. Where they become the norm, they provide a motivation for litigation, because an attorney receives a fee out of the lump sum. Prohibiting lump sums is inappropriate, however, until steps are taken to address the underlying uncertainties that produced them. Moreover, in all cases, the right to settle should be preserved where there is a genuine dispute to whether the injury was work-related (a

significant problem in Maine).

Attorney fees: Attorney fees should be payable out of an award, not assessed against an employer routinely whenever the employee prevails in a proceeding, as is the Maine rule. The majority rule in the states is that the fee is payable out of the award. Some states impose a fee on an employer where there is a question of the employer's good faith in controverting a claim. The Maine rule effectively penalizes an employer for exercising its rights under the Act.

Administration: Irrespective of the law's text, how a law is administered is critical to its effectiveness. As noted in the discussion of litigation, inconsistent opinions, or decisions which depart frequently from accepted statutory intent breed uncertainty, litigation, and a lack of confidence in the fair administration of the Act. Given the consideration of the Michigan law, that state's experience in this regard may be relevant for Maine. Michigan, too, experienced poor administration. The agency was reconstituted, with the agency staff required to re-apply for their jobs. A business-labor review was instituted to consider all appointments.

Michigan's Law

In an attempt to resolve Maine's problems comprehensively, some have recommended adoption of another state's law, Michigan specifically. Although the Workers' Compensation Group has made a significant contribution in this effort, the AIA, like the Maine Self-Insurers, would not recommend adoption of the Michigan law. Nor would we recommend wholesale adoption of any state's law. This is not to say we do not like features of the Michigan law. The states are laboratories, and we often recommend features of various state laws. The conceptual mistake in incorporating another state's law is the danger in adopting features inappropriate to Maine, as well as imposing a foreign statute and accompanying jurisprudence on Maine's jurisprudential landscape. This can produce significant uncertainty, litigation, and unintended results. A fresh example is the recent U.S. Supreme Court decision in General Motors v. Romain which seven years after the statute's enactment resolved an issue of retroactive application of the benefit offset in favor of employees, imposing a new liability on employers. Additionally, as noted, good administration is key; and Michigan has been fortunate in recent years to have well-regarded, effective administration.

The more appropriate approach is to review aspects of other states' laws -- benefit design, compensability standards,

coverage, for example -- with an understanding of how, if, and why these provisions have worked in the other state. For example, Michigan provides for mediation of claims and, given the litigious environment in Maine, one reasonably might conclude that taking the Michigan language would reduce litigation in Maine. Not so. It does not work in Michigan, and probably will be repealed this year. It does not work, because parties are not required to produce evidence, thereby merely transferring the battle to the administrative law judges. Without a means to enforce parties' cooperation, the requirement to mediate is merely precatory. Plopped down in Maine's litigious environment, the result would be no better.

Having said this, there are aspects of the Michigan system which we support. These include:

(1) Maximum benefit -- Michigan's maximum is 90 percent of the statewide average weekly wage. Maine's is 166 2/3 percent. Although we do not endorse a specific maximum, we note that Michigan has concluded it is able to afford -- and is willing to pay for -- only 90 percent.

(2) Spendable Earnings -- Michigan is one of only a few states with a benefit formula based on a percentage of net income (80 percent). Almost all other states, including Maine, use 66 2/3 percent of gross wages, tax-free. Although two-thirds of

gross wages has been widely observed since the early days of workers' compensation, this was a time prior to the progressive federal and state income tax systems. Thus, two-thirds of gross wages, tax-free, usually meant close to two-thirds of net wages. Today, a benefit formula based on gross wages typically replaces considerably more than two-thirds of pre-injury wages -- a fact with negative implications for preserving return to work incentives. A net pay approach better preserves this incentive and is more equitable, because a worker's income replacement is not dependent on the fortuity of his or her tax liability. 80 percent of spendable income was also the preferred approach of the 1972 National Commission on State Workmen's Compensation Laws. A spendable income approach would be particularly useful in Maine, because the atypically high maximum is undoubtedly distorting return to work incentives.

(3) Rating Law -- Michigan's rating law is "market-based," in that insurers are able to implement necessary rate adjustments expeditiously, subject to the Insurance Commissioner's disapproval if found subsequently to have violated the statutory standard of being excessive, inadequate, or nondiscriminatory.

AIA is prepared to undertake a more in-depth analysis of the Michigan system, if there is continued interest in that state's approach. Meanwhile, we encourage the Commission to discuss this matter with current and former administrators.

Toward Rate Adequacy

When excessive benefit costs are brought under control, the prospect for achieving long-term rate stability is enhanced. However, regardless of what benefit structure is enacted -- a decision between employers and employees -- there needs to be a commitment to rate adequacy, or there cannot be ultimately a solution to the problems of the residual market, a symptom of chronic rate inadequacy in the voluntary market. Rate adequacy is not limited to the voluntary market, however; it also must be reflected in the involuntary market, regardless of whether the involuntary market is an assigned risk pool, a state fund, or some other mechanism. Suppressed rates in the residual market not only fail to cover losses but serve to suppress rates in the voluntary market, as well. Further suppressed rates in the voluntary market lead insurers to be even more selective in underwriting risks, meaning still more risks are underwritten in the residual market. If that market is an assigned risk pool financed by insurers, the higher number of risks assigned to the pool drive up insurers' pool assessments, meaning the insurance market becomes less profitable -- or unprofitable -- and further discouraging writing risks in the voluntary market. This is the vicious cycle in which Maine has been trapped for many years.

If the residual market is a state fund, ultimately its

deficits raise broader questions of public policy, including the role of the private insurance market in securing important social benefits and the obligation of all employers or of the state's taxpayers in financing this social insurance system.

Indeed, these are precisely the questions now being debated in Minnesota and Montana. Minnesota created its state fund in 1983, financed by a loan of \$5.6 million (never repaid). Although still solvent but chronically undercapitalized, the state's Commerce Department took control of the state fund last week, citing investment losses, in order to protect policyholders. The shortcomings of the Minnesota state fund, often cited as an example by state fund proponents of a well-run fund, is even more glaring in view of its advantages over private insurers. Not only was it lent start-up capital at well-below market rates, because of its relative newness, it had not been burdened earlier on by assessments to prop up the Special Compensation Fund which finances cost-of-living adjustments.

In Montana, the state fund, unlike Minnesota, serves as the residual market. It has long been in financial straits. By 1989 its deficit had soared to about \$250 million. In that year the Legislature created a new fund to cover post-July 1990 claims, financed by \$20 from general revenues and imposing on all employers a payroll tax of 28 cents per \$100 of payroll to repay \$142 million in bonds raised to begin retiring the deficit of the

old fund. The Legislature may soon have to raise this tax because the \$142 million is almost exhausted and liabilities through the mid-1990s are estimated to be at least \$433 million. Not surprisingly, the "new" fund is also sinking, having seen its \$12 million surplus dwindle to \$2 million this year.

The Montana fund makes its own rates; and its chronic underfunding has led to not only excessive losses -- losses for which all Montana employers will be paying indefinitely through payroll tax -- but to suppressed rates in the voluntary market to the extent that it now writes about 80 percent of the market. There are serious discussions about trying to sell the fund, getting the state out of the insurance business entirely.

Although our preference generally is for the residual market to be an assigned risk pool, self-funded, self-sustaining, with incentives for providing good service, this is not to say that a state fund is never appropriate. Notwithstanding our opposition generally to government being in the insurance business and our preference for an assigned risk pool mechanism, AIA supported creation of state funds last year in Texas and Louisiana. We are also supporting legislation to convert the Rhode Island state fund into the residual market. We took this route after concluding that these states' workers' compensation systems faced a crisis where a state fund would actually help restore a voluntary market. In these states the assigned risk pools had

experienced dramatic growth, with substantial deficits and no expectation for improvement. In other words, creation of a state fund to serve as the market of last resort under these circumstances does not so much compete with the private insurance market as it stabilizes what private market remains, allowing the private market to recover over time.

Consistent with these parameters, AIA could support activating the state fund in Maine -- if and only if it serves as the residual market and there are also enacted necessary systemic reforms, as has been the case in Texas, Louisiana, and Rhode Island.

A state fund is not a panacea. As with any residual market mechanism, there must be a commitment to adequate rates, and the problems producing runaway losses must be curbed.

Although a systemic state's rating law is an important element in assuring rate adequacy, a rating law can be abused to frustrate an expeditious implementation of necessary rate adjustments. Maine has a traditional prior approval system, where the rating organization files for the Insurance Superintendent's approval a final rate -- a fully developed and trended loss cost (pure premium) element and loadings for expenses and profit. There is nothing inherently deficient in such a rating system; it is how it is used which creates the

problem.

Nor is there any inherent allure to a "competitive" rating law like Kentucky's in which rates in the residual market are suppressed, suppressing rates in the voluntary market. Nor, for that matter, Maryland's "competitive" rating law which has "worked," because in Maryland there has been a commitment to rate adequacy, as well as a competitive state fund that serves as the residual market. Since the rating law became effective in 1988, the Maryland insurance environment has improved significantly. There is a less concentrated market than existed previously, indicative of enhanced competition fed by insurer expectations and confidence in their ability to cover losses and to earn for their shareholders (or policyholders) a reasonable return on their capital investment.

As noted, market-based pricing of insurance is also a vital element of the successful Michigan system. Recognizing that, in itself, eliminating regulatory impediments for rate approvals will not produce a stable insurance environment, it will, nonetheless, provide a rating system which may lend employers and regulators greater confidence in the integrity of the rating process and, thereby, afford a means through which necessary rate adjustments can be made more expeditiously.

Comprehensive reform of Maine's workers' compensation system

is analogous to a three-legged stool, and reform will not succeed without all three legs: Benefit system reforms to control the cost-drivers, a means for insurers to achieve adequate rates, and an effective residual market mechanism which allows recovery of the voluntary market. AIA remains committed to helping all parties achieve this goal, so that Maine's employers and employees will again realize workers' compensation's social insurance promise of providing injured workers a no-fault means of recovering a fair level of benefits, expeditiously delivered, at a price employers can afford.

* * *

John R. McKernan, Jr.
Governor



Stephen G. Ward
Public Advocate

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May 20, 1992

Blue Ribbon Commission on Workers' Compensation
University of Maine School of Law
246 Deering Avenue
Portland, Maine 04102

Dear Blue Ribbon Commission Members and Staff:

As background for our testimony scheduled for June 8, we are forwarding a copy of the Public Advocate's brief in the most recent workers' compensation rate case. The introductory section may be particularly relevant, since it gives our overall analysis of some of the factors underlying the crisis that Maine now faces. We have enclosed three copies; a copy previously was sent to Chairman Hathaway, at his request.

We look forward to speaking with you in June.

Sincerely,

A handwritten signature in cursive script that reads "Martha McCluskey".

Martha McCluskey
Counsel

MM/bs
Enclosure

OCCUPATIONAL INJURY AND ILLNESS INCIDENCE RATES,¹ PRIVATE SECTOR
(UNADJUSTED FOR STANDARD INDUSTRY MIX)

	<u>LOST WORKDAY CASES</u>		<u>LOST WORKDAYS²</u>	
	MAINE	MICHIGAN	MAINE	MICHIGAN
1990	7.0	4.8	173.6	109.9
1989	7.4	4.9	177.6	100.1
1988	7.3	4.7	167.9	92.1
1987	6.9	4.3	154.8	81.7
1986	6.0	4.0	128.2	74.7
1985	6.2	3.8	136.6	71.2
1984	6.7	3.6	139.4	64.8
1983	5.6	3.3	110.1	62.1
1982	5.5	3.2	114.0	59.0
1981	6.0	3.5	112.5	62.2
1980	6.1	3.6	113.7	68.4
1979	6.2	4.3	104.2	71.9
1978	5.5	4.2	96.0	70.6
1977	4.8	3.8	87.7	63.1

1. The incidence rates represent the number of injuries and illnesses or lost workdays per 100 full-time workers and were calculated as: $(N/EH) \times 200,000$, where,

N = number of injuries and illnesses or lost workdays,

EH = total hours worked by all employees during calendar year,

200,000 = base for 100 full-time equivalent workers (working 40 hours, per week, 50 weeks per year).

2. Lost workdays: The sum of days away from work and days of restricted work activity due to occupational injury or illness. The days need not be consecutive and do not include the day the injury occurred or the day the illness was discovered.

Source: Bureau of Labor Statistics, U.S. Dept. of Labor, 1978-1991.

MAINE BLUE RIBBON COMMISSION

5/26/92

PRELIMINARY ESTIMATED COSTS IMPACTS

ADOPTING THE MICHIGAN PLAN

- I. The Greatest Savings will be achieved by Reducing Injuries (Both Frequency and Severity). Such savings are not quantifiable in advance.
 - A. Maine's injury rate is the worst in the U.S. and is 46% above Michigan's
 - B. Maine's severity (lost time) rate is the worst in the U.S. and is 58% above Michigan's

- II. Quantifiable and Substantiated Savings

	<u>Savings</u>	<u>Costs</u>
A. Servicing Carrier and Sales Fees Now 30% Can Be Reduced to 11-15%	15+%	
B. Investment Income -- Improvement compared to NCCI Managed Pool. (2% rate of return increase over 3.5 years weighted average "tail" by matching the maturity of investments to the payout portion of obligations)	7%	
C. Non-Profit Operation (14% rate of return sought by insurers based on 2:1 premium to equity ratio)	7%	

- III. Benefits Savings & Costs
 - A. Savings
 - 1. Quantified

a. 80% of net v. 66 2/3% of gross	2-3%
b. Workers' attorneys fees	3-4%
 - 2. To Be Quantified

a. \$441 weekly max v. \$518 weekly max	?
b. 7-day v. 3-day waiting period	?
c. Surviving spouse's benefits/ restricted to 500 weeks	?
d. Age 65/5% reduction per year	?
e. "Significant" required for conditions of aging process	?
f. Michigan unlimited voluntary payment v. Maine restriction on unilateral termination (viewed by claims personnel as a substantial driver of severity)	?
 - B. Costs

Permanent partial not subject to arbitrary durational limit (Maine now 520 weeks of <u>benefits</u>)	7-8%
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- IV. Savings of W.C. System Costs from controlling intentional discrimination and failure to re-employ (Maine's severity [lost time] rate is worst in U.S. and 58% above Michigan's.

	35%+ ?	7-8%
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The greatest drivers of costs are the incidence and severity of workplace injuries. Control of incidence requires prevention and motivation. Control of severity requires actual re-employment, prevention of discrimination and avoidance of overpayments. The Michigan Plan's provision for unilateral suspension of benefits places control of overpayments exclusively in the hands of the payor. Actual re-employment requires incentive and, when that fails, an effective remedy and deterrent outside the workers' compensation system.

TESTIMONY OF ROBERT B. KELLER, M.D.
BLUE RIBBON COMMISSION ON WORKERS COMPENSATION
May 26, 1991

My name is Robert Keller. I am an orthopaedic surgeon with a practice in Belfast. I am also Executive Director of the Maine Medical Assessment Foundation, a health services research organization located in Augusta.

My orthopaedic practice involves the care of patients covered by Maine's workers compensation system. I also perform a number of independent medical evaluations for compensation patients. The work of the Maine Medical Assessment Foundation has involved the study of the practice patterns of physicians performing spinal surgery on this group of patients.

My statement today will focus on a specific aspect of the current workers compensation situation in Maine. I am sure that you have heard and will continue to receive a huge amount of information and opinion about the many problems which exist in Maine. I would like to discuss one aspect of the current system - the role of health care "providers". Providers include medical and osteopathic physicians, chiropractors, physical and occupational therapists, rehabilitation specialists, psychologists and others. It is a large and disparate group. I must state at the outset that it is difficult to focus on only one segment of the compensation system without discussing others, as they are all closely related, but there are important considerations which apply uniquely to this group known as "providers".

There are two points which I believe need to be highlighted. The first is one which everyone is concerned about, and that is the cost of health care in workers compensation. The second point is rarely, if ever mentioned. It is as follows. I believe that health care providers have the potential to and frequently do "build in" disability in worker's compensation patients. Let me discuss the second issue first as it is the more difficult and in fact produces a good deal of the cost problem.

By "building in" disability, I mean that providers often [though certainly not always] induce and prolong disability in the workers they treat. The easiest way to understand the problem is to focus on a specific example. Low back injuries are the most common and expensive problem in workers compensation, and they illustrate the situation as well as any work related condition. Let us acknowledge that in any given year there are a certain number of very severe low back injuries, including fractures, major disc ruptures and even spinal cord injuries. These injuries are not common, they are easily recognized, and urgent, complex medical care is required.

However, for every one of these severe injuries, there are hundreds of episodes of low back pain - some of which develop as the result of a specific injury on the job and many of which simply appear during or after the work day. Here's the problem. With the exception of a very few specifically diagnosable conditions, we do not understand the specific anatomic or physical abnormalities occurring in this group of patients. Scientific knowledge about the actual etiology of low back pain is extremely limited. But you wouldn't know that from looking at the medical reports we all submit.

A person with pain in his low back could be [and probably will be] labeled with any and many of the following diagnoses: lumbar strain or sprain, lumbago, sacro-iliac strain, degenerative disc disease, ruptured or herniated disc, myo-fascial syndrome, pyriformis syndrome, fibromyositis, facet syndrome, vertebral subluxation, hip or sacro-iliac dislocation, spinal dysfunction, and so on. Understand that any or all of these diagnoses could be applied by health care practitioners to the same patient with the identical symptom of pain in his or her low back. Does this mean that this worker has any one or all of these awful sounding conditions? No, it means that providers have adopted a series of diagnostic labels, for which there is little or no scientific support, to describe a condition we poorly understand.

Next, there is clear evidence that the process of aging of the human spine begins almost as soon as growth stops. Changes in the intervertebral discs occur as part of a normal process in young adults. As a result, x-rays or other imaging studies of the spine can be interpreted as "abnormal" in almost everyone of working age - certainly over the age of thirty. Now we have added the probability of a positive x-ray reading to a an arbitrary diagnosis.

We also know that back pain itself is a part of life. Eighty plus percent of humans will experience back pain at least once in their lives. Equally importantly, we know that almost all of us recover from those episodes with little or no treatment. The exhibit included in this statement indicates the recovery rate for acute low back pain episodes. 50% recover in two weeks, 90% in two months and 95+% in three months. In the case of herniated or ruptured lumbar disc, the natural history of recovery rates is a bit slower but the trend line is the same.

To summarize our present state of knowledge - with the exception of specific and relatively infrequent conditions such as herniated disc, we do not know what produces pain in the back, but we do know that most of us will have it at some time in our lives, that our x-rays become "abnormal" at a young age and that our own natural healing processes almost always takes care of the problem in a relatively short period of time.

The scientific evidence for this position is quite firm. Why then do we have such tremendous problems with back pain injuries in workers compensation? First, the labels are part of the problem. If I were a worker without specific medical knowledge and was referred into the health care system as the result of a low back episode, I might be quickly convinced that I had a serious condition and, depending on how many and what kind of providers I saw, that I had a whole bunch of things wrong with my back. Every specialty uses a different set of diagnostic labels to describe what they do not actually understand, and so the more providers a person sees, the more different labels are applied.

Next, in their efforts to help, providers often make the situation much worse. They have already labeled the patient with an ominous sounding diagnosis, say degenerative disc disease or lumbar sUBLUXATION. Then some form of diagnostic testing is undertaken. Although experts agree that tests such as x-rays should not generally be performed in the first 30 days of an episode, workers are usually subjected to such studies almost immediately. The problem is that the tests will be "abnormal" because everyone is developing an aging spine. That first test all too often leads to more sophisticated and expensive studies such as CT scans, MRI scans and electro-diagnostic studies. Having performed all of these tests once, it is not unusual to see them repeated again. The numbers of expensive tests applied to worker's compensation patients is never equalled in other patient groups.

Patients then undergo a series of treatments, only a few of which appear to be effective, and many of which are of questionable and unproven efficacy. Ineffective, but commonly utilized treatments include bed rest of over a few days, removing the worker from the work site for more than a few days, the use of manipulative therapies for more than a few weeks, so-called TENS units, various injections, corsets and braces. During this period of time, the individual is generally removed from the work force in spite of the fact that best evidence indicates that controlled activity [so-called activation] is the preferred form of treatment. But often the provider or employer does not want the employee on the job until the so-called injury has healed.

As a result of all this, the worker, who started out with a high probability of spontaneous recovery from his or her episode of back ache is becoming deeply trapped in the health care system. Now other participants begin to play a role. This includes employers, insurers, rehabilitation specialists, compensation commissioners, and attorneys. Time does not permit a description of the byzantine events produced by this cast of characters, but the net result is that the chain of events begun by the providers is made many times more complex as the system results in increasing pressure to diagnose and treat something now labeled a work-related injury.

Why is the situation so much worse in the workers compensation arena? First, the lack of knowledge about low back problems among health care providers is appalling. We over-diagnose, over test and over treat this generally minor, self limited condition. Second, because of the pressures of the compensation system a simple problem is made incredibly complex with the result that the worker is placed in a position where prolongation and exacerbation of symptoms frequently develops as the result of an economic and emotional imperative. Third, if the system really cranks up and providers or others produce a long period of disability, secondary conditions such as chronic pain syndrome develop. By the time this happens, the likelihood of effective return to work is almost nil.

I have focused these remarks on the problem of low back pain because it is the most common and expensive condition in the system, but there are many others. The whole complex of upper extremity overuse syndromes and neck and shoulder pain often have similar outcomes and all of the same factors apply. The labels, testing and treatments vary, but the scientific basis for utilizing them is no better.

Can we do anything about these problems? I believe the answer is "yes", but I don't for a moment think it will be easy to solve them. The reason is that many interests will view themselves as unfairly harmed, and strongly vested groups and organizations may object to any change in the status quo. However, let me list the things I would suggest:

1. For any but the most straight forward injuries, such as minor contusions, lacerations, fractures and other conditions, injured and symptomatic workers should be evaluated promptly by providers who are experts in the entire compensation system. Protocols should be in place that will trigger referral, evaluation and treatment very promptly. Experts need to understand the medical problems and provide prompt, high quality care, but they also need to know how to carefully monitor patients' response and compliance to treatment. They need to relate to the other elements in the system, and to return the worker to his job as soon as possible. An example of such an expert system is the Maine Occupational Health Program. We need to support and enhance such programs. Where such expert systems do not exist, they should be supported and encouraged to develop.

2. This concept is basically a form of managed care, and I believe that is precisely what is needed. Because of the law and regulation which surrounds them, injured workers are in a different status than other persons with similar conditions. This fact should be recognized and special health care systems developed to deal with the problems which are peculiar to compensation injuries and conditions.

There are those who would argue that such a system would be discriminatory and workers would lose the choices that they now enjoy. I would respond that, unless one wishes to completely eliminate workers compensation, the social and legal structures of compensation have produced the need for a special health care system - not one of lesser quality - but one that understands the laws and regulation, one that can deal and negotiate effectively with all the other players, and one that really understands what it is that takes an often minor condition and elevates it to a major disability. The current system of free choice has failed.

3. I would recommend that all injured workers undergo mandatory expert second opinions and, perhaps even third opinions when elective surgery is recommended by a treating physician. In general, I am not a proponent of second surgical opinions, but I would make an exception in this case. The work of the Maine Medical Assessment Foundation has clearly demonstrated a factor known as "professional uncertainty" in the treatment of many conditions, including many of those occurring in the compensation arena. There are significant differences in decision-making among providers, even those in the same specialty. As a result, recommendations for treatment can vary widely.

For conditions such as overuse syndromes, neck and low back pain and others, surgery is rarely indicated in any patient, but it is often performed. The reasons for this are many, but they are exceeded only by the poor results which follow. The indications for surgical treatment for conditions which have a high likelihood of spontaneous remission should be extremely explicit.

4. Other therapies of unproven value for long term use should be carefully monitored and over-utilization avoided, In this category I would include spinal manipulation, physical therapy, ultrasound and other modalities, many medications and so on. All of these treatments can be of value for short term therapy, but their long term efficacy is not proven, and I believe that continuing such treatment contributes significantly to "building in" disability. Methods and protocols should be in place to regularly and carefully review on-going treatment programs. Endless, unproven therapies are not only expensive, but they may result in prolonged disability.

Finally, let me discuss the question of excessive health care costs in this system. If the goals I have outlined could be accomplished, a great deal of money would be saved. There would be less testing, less treatment, less time out of work and much less long term permanent and partial disability.

The way to spend less in the workers compensation system is not to reduce professional fees. What providers are paid per unit of service is actually not very important. Reduction in reasonable professional fees would only discourage the best providers from

participating in the care of injured workers - a problem which has already occurred. The way to spend less is to decrease the volume of unnecessary and useless services - services which are expensive and which produce even more services - all of which are currently paid for. Our work in the Maine Medical Assessment Foundation has demonstrated time and again that it is not the cost per treatment that is bankrupting health care, it is the volume of treatments provided. The problem is equally or more true in workers compensation. If we were able to rationalize the provision of health care to injured workers, health care costs would decrease dramatically.

I have, in these remarks, made critical statements about the role of health care providers in the workers compensation system and the problems which result. I have not focused on any specific group of providers because in my view we all share responsibility. I have also made several suggestions that I believe would improve the current system. The statement is frequently and truly made that the people who really lose in the current workers compensation system are the workers themselves. I hope that the efforts of your distinguished commission will result in strong recommendations that recognize the problems in the current system and point the way to real change and improvement.

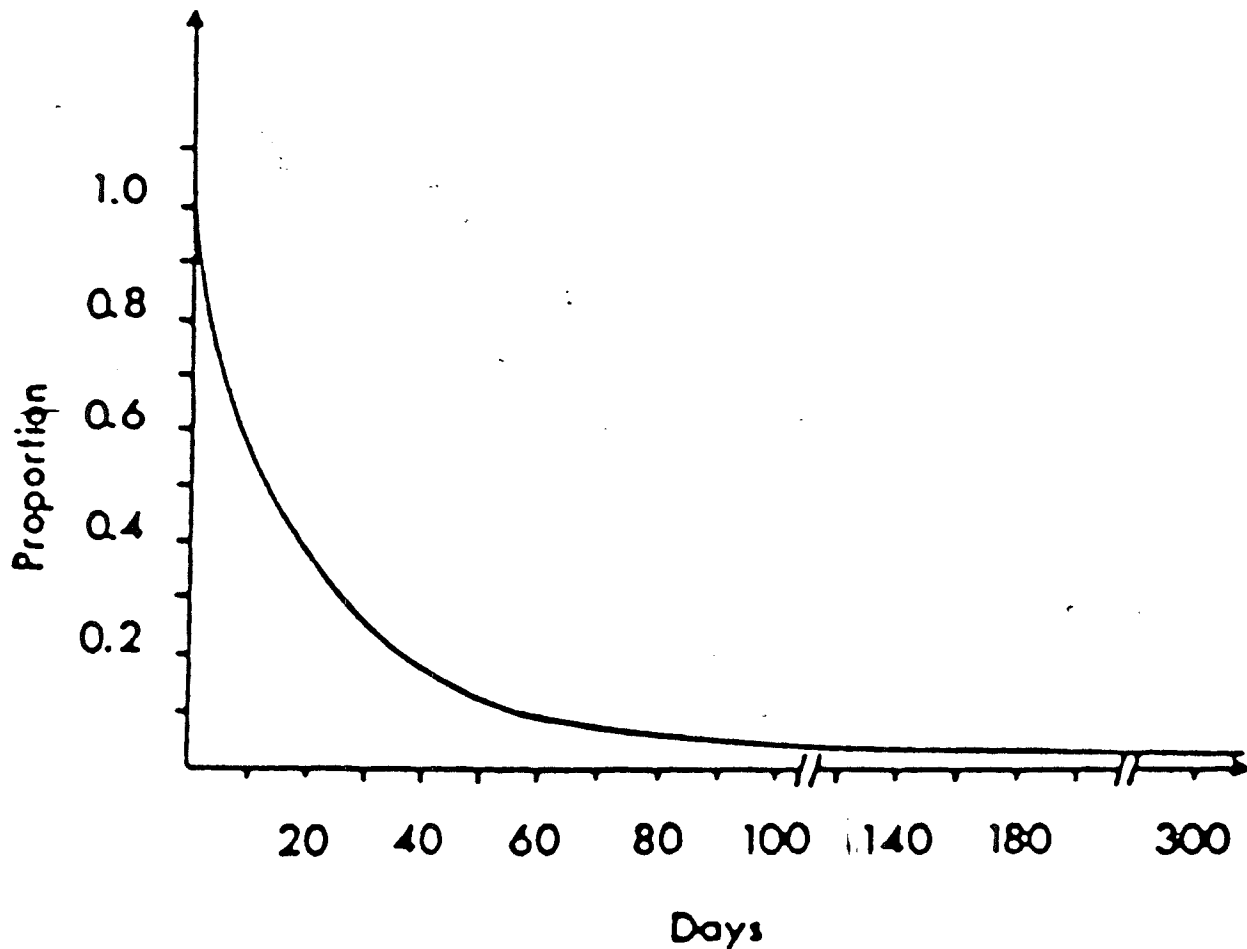


Figure 1:

The recovery from acute low back pain is depicted. Note 50 percent of the patients have returned to function within two weeks, and only five percent remain disabled after three months. (Reproduced from Svensson and Andersson⁸ with the permission of the authors and publisher.)

File

Sandra J. Hayes, R.N.
Medical Coordinator
Maine Workers' Compensation Commission
before the
Blue Ribbon Commission
June 1, 1992

My name is Sandra Hayes and I am the Medical Coordinator for the Maine Workers' Compensation Commission. This position and the Office of Medical Coordinator was created last summer by the legislature. I am the first medical coordinator. I began this position on November 15, 1991.

By way of background, I am a registered nurse with a Bachelor of Science in Nursing from the University of Southern Maine. I practiced primary nursing care at Maine Medical Center and briefly at the University of California, Davis Medical Center, specializing in orthopedics and trauma for seven years. Also, I have been employed by Hanover Insurance Company as a workers' compensation claims adjuster and later as a medical coordinator.

During the Spring 1991 legislative session, I testified in front of the Joint Standing Committee of Banking and Insurance. I also attended several sessions regarding medical issues and problems in the workers' compensation system.

One of the developments from that session was the Office of Medical Coordination. Under §121 and §122, I was appointed by Governor McKernan for a term of five years. The Office of Medical Coordination has a staff of two, myself and my secretary. The Office of Medical Coordination is located within the Central Office of the Workers' Compensation Commission. The

statute provides the Medical Coordinator with the authority to propose rules and regulations and administer them. However, I work closely with Chairman Ralph Tucker.

The powers and duties that have been charged to the Office of Medical Coordination may be broken down into three sections.

1. Direct Medical Cost Containment.

Direct Medical Cost Containment is mandated by §52-B which calls for a Workers' Compensation Medical and Hospital Fee Schedule. Currently, we have a fee schedule that was mandated by statute during the 1987 workers' compensation reforms. It was implemented in 1989. It is based on Oregon's Medical Fee Schedule and relative value system. The present medical fee schedule needs to be updated due to significant gaps as well as changes brought about by the American Medical Association.

This statute also mandates the development of a hospital fee schedule. However, a hospital fee schedule is extremely complex and will require research.

2. Quality Assurance.

The quality assurance duties of the Office of Medical Coordination include the development and implementation of a Utilization Review and Case Management Program. These programs under §52-D create an avenue by which health care providers will be reviewed on the care they give by other specialists within their discipline.

In medically chronic or unusually expensive cases, a case management team will be assigned work with the primary doctor. This will be on a consultant basis. Also, the Office of Medical Coordination will recommend treatment protocols for the most common work related diagnosis.

Finally, I feel one of the most important duties that I face will be to educate the health care community. I want to ensure the quality of patient care will be maintained at an optimal level.

3. Independent Medical Evaluation Program.

The independent medical evaluation system (§92-A) was enacted by the legislature to render impartial medical findings on the medical condition of an injured employee.

The major issue we have been faced with is who qualifies as an independent medical evaluator. There has been much debate over §92-A(2). This section states ". . . a physician who has examined an employee at the request of an insurance company or an employer in accordance with §65 during the previous 52 weeks is not eligible to serve as an independent medical examiner." (emphasis added) The question which has been debated is, does "an" mean any or the. Also, there has been significant controversy over who was most qualified to examine the injured employee - a treating physician or a specialist in disability evaluations.

The ambiguity of the statute has created problems that we may not be able to resolve through rule-making. I will not be surprised if litigation ensues on whatever rules we eventually promulgate.

Presently, the rules and regulations are being finalized for submission to the Secretary of State for promulgation. In developing the rules and regulations, we met with many interest groups. Also, we developed a health care advisory committee consisting of medical doctors, osteopathic doctors, chiropractors, physical therapists, occupational therapists, psychologists, and nurses. This committee has been indispensable to us, meeting frequently and dealing with tough regulatory

issues. Although the development of the rules and regulations was at times a rather arduous task, I feel we will be successful in creating sound rules and regulations in accordance with the statute.

However, following this start up phase, the ability of the Office of Medical Coordination to provide quality service to the workers' compensation system will require a larger staff and budget for the data collection, development, and implementation of the programs which are mandated by statute.

MAINE MEDICAL ASSOCIATION

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April 22, 1992

Sandra Hayes
Medical Coordinator
Workers' Compensation Commission
State House Station #27
Augusta, Maine 04333

Dear Sandra:

Re: Proposed Rulemaking/Office of Medical Coordination

I am pleased to be able to follow-up my oral comments presented at the rulemaking proceeding held on April 16, 1992 to take comment from the public on the proposed rules issued by your office. As I indicated at that time, the Association, through its Ad Hoc Committee on Workers' Compensation, has reviewed the proposed rules carefully, compared them with the statutory amendments enacted in 1991 and is pleased to be able to make these comments. We are also very appreciative of the role that your Health Care Advisory Committee has played in the formulation of the proposed rules. As you know, Drs. Charles Adams and David Phillips, II are members of both the Association's Ad Hoc Committee and your Health Care Advisory Committee. Therefore, we are aware of the input that has already been given and these comments should be construed as additional comments representing the views of the Medical Association as expressed through the Ad Hoc Committee.

Our comments regarding the rules are presented by Section, as follows:

Section 10.14 Independent Examiners

Section 10.14 deals with the criteria for eligibility for independent medical examiners. The Association believes that the overriding goal of such a Section should be to assure that the very best trained and qualified providers are encouraged to participate. Unfortunately, some of the constraints contained in Section 10.14 we believe will deter well-trained physicians from applying to be on the list of independent medical examiners. We therefore recommend deletion of Section A.2. and A.4. which require specific training by December 1993 and prohibit the provider from devoting more than 50% of his professional time to performing independent medical evaluations.

Maine physicians undergo an exhaustive amount of continuing education in order to stay current in their skills. The Board of Registration in Medicine, by rule, requires specific continuing education requirements. To specify specific training in the independent medical examination area, will be seen as redundant, particularly by those physicians who have traveled outside the State to attend continuing educational programs offered through their specialty organizations.

The requirement in Section A.4. specifying that the provider must devote no more than 50% of his professional time to perform an independent medical evaluations, does nothing to assure that the final product will be improved. The fact that a physician practices exclusively in a given area should not disqualify the physician from practicing in that particular area. While some people might argue that it is a benefit to have the independent medical examiner be in active medical practice examining and treating patients, the Medical Association does not believe that such a requirement should be in the statute.

As mentioned in our oral comments, we also object to the second sentence in Section A. that states that all applications shall be subject to approval by the Office of Medical Coordination. This sentence needs to be clarified to determine whether the approval is a "ministerial" task, once the provider meets the requirements of Sections 1. through 6. or whether the Medical Coordinator can exercise discretion in placing qualified applicants on the list. If the approval is a discretionary process, then an appeal process should be allowed through the procedures of the Maine Administrative Procedures Act.

The Association also strongly opposes Section A.2. which would require the medical examiner training to be approved by each professional association. The Maine Medical Association, as the professional association representing medical doctors in the State, is not in the business of approving training programs and would not wish to be put in the position of passing on the adequacy of such programs under your rule.

In Section B., the Association agrees with the interpretation of the Commission regarding the provider being disqualified for examining the employee at the request of the insurance company or pursuant to Section 65 during the 52 weeks preceding the request for the examination. We would add referrals by attorneys and employers to the provision although both would probably be considered under the reference to Section 65.

Section 10.15 Independent Medical Examinations

In Section A., the ability of the independent medical examiner at their discretion to contact the employee and/or prior treating health care providers is necessary but raises problems regarding the issue of the patient's release. Because other provisions in the law suggest that no signed medical authorizations are required, the independent medical examiner may seek such information from previous treating physicians but find that such

physicians are unwilling to provide information without the patient's signed authorization. We would suggest that the independent medical examiner be presented with a signed release by the patient authorizing him to receive other information relevant to the injury or condition from prior treating health care providers. Also, in sentence 3, it is not clear who has the obligation to provide all the medical records and other pertinent information to the examiner.

In Section B., the Medical Association believes that the examiner should be responsible for furnishing only one original report to the Office of the Medical Coordinator or to the employer and that the Office of the Medical Coordinator or the employer should be responsible for furnishing copies of the report to the employee, the employer and the Commissioner. In addition, the treating physician should also receive a copy of the report. It is also unclear to which report the invoice should be attached.

With respect to Section C., the Association recognizes how difficult it is to come up with a maximum charge that will be considered fair under most circumstances. The charge of \$450.00 may be reasonable for a routine independent examination but we are pleased to see that exceptions to the amount may be approved by the Office. In addition, there should be a clarification that the \$450.00 does not include the cost of any x-rays or other diagnostic tests that are determined to be necessary by the independent medical examiner. The employer/insurance company should also be required to pay for the cost of the exam within 30 days of presentation. If physicians are required to provide their reports within 5 working days, insurance companies and employers should be expected to pay their bills on a timely basis.

The Association also believes that there should be a fee available to be charged if the examination is scheduled but the patient does not present. We would suggest a \$200.00 charge for such a "no show" recognizing that the physician's time has been scheduled and can not be easily refilled.

Section 10.17 Changing Health Care Providers

We realize that this Section tracks the statutory language and would suggest only that Section B. include the same type of language found on the top of page 9 regarding the maximum fee for reviewing the request to change health care providers. Clarification should also be made as to whose obligation it is to pay the independent medical examiner for such a review.

Section 10.18 Reports of Primary Health Care Providers

Section A. does not precisely track the statutory provision that references 5 business days and excludes claims for medical benefits only. We believe that the language in the rules should be the same as that in the statute. In addition, we object to the provision regarding release without a medical authorization and suggest that such a provision may be more confusing than to

require a release. If no release is required with respect to the M-1 form but is required with respect to the attachment of a narrative which is referenced on the bottom of the form, then it would seem to make sense to have one consistent requirement that a release be provided. We are also perplexed by the language requiring that the charge for the reports be included in the provider's charge for the office visit, but appear as a separate entry on the statement. We don't understand the need for a separate entry on the statement and we would also request that the health care provider's charges for the office visits be raised to include the preparation time for the M-1 form.

We make the same comments on the issue of a separate entry on the billing statement with respect to Sections B. and C. We also think there should be a clarification between the issuance of the final medical report in Section C. and the principle of maximum medical improvement. We would also suggest adding a Section D. dealing with the hospitalized patient and specifying who is to fill out the form and the timing of the form. We would suggest that the report not be prepared until after discharge and that it be prepared by the attending physician.

Section 10.19 Medical Utilization Review

We recognize the difficulty that Medical Utilization Review poses and the Ad Hoc Committee of the Association stands willing to assist your office to work with medical specialties to develop the protocols specified in the statute.

With respect to Section D., we again believe that the independent medical examiner should be required to file only one report and that the distribution to the parties be by someone other than the physician's office.

As a technical change, we believe that in Section E. in the first line the word independent should be added prior to the words medical evaluations.

Section 10.20 Case Management

We also recognize how difficult the Case Management system may be to establish and offer the advice of our Ad Hoc Committee. Also, Section I requires that the current health care provider review the recommendations of the independent medical examiner and state in writing if he or she does not believe that these recommendations should be implemented. Nowhere in the Section is the issue of payment to the health care provider for reviewing the recommendations and preparing a report addressed.

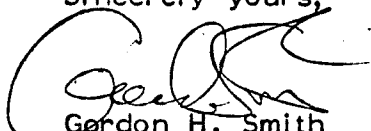
M-1 Form

Most of the Ad Hoc Committee recommendations on the form deal with items numbered 5., 6. and 7. We believe that section 5. should read, Is This Condition Due to Work Activity?, and it should be recognized that frequently the doctor will simply be

relying upon the recital of information by the patient to answer the question. Section 6. we believe should deal with light duty work when available. We also request that the terms in the form be consistent and that treating physician in line 3 be changed to read treating practitioner. Section 7. regarding work capacity drew the most comments from the physicians and we had previously submitted to you suggested changes for item 7 from Dr. Christopher Brigham. Dr. Brigham has also suggested revisions to M-2. The requirement that the physician or physician office include the ICD-9/DSM III code also has been widely discussed by the Committee. We would suggest making the listing of the code optional so as not to delay the report in cases where the physician may be completing the form and may not have the codes readily available.

Again, we appreciate the opportunity to comment on your proposed rules and we look forward to continuing to work with you in your challenging task of serving as the State's first Medical Coordinator in the Workers' Compensation Commission.

Sincerely yours,



Gordon H. Smith
Legal Counsel

GHS:pp

cc: Ad Hoc Committee on Workers' Compensation
Frank O. Stred, Executive Vice President, M.M.A.
Joel E. Adams, M.D., President, M.M.A.

Medical Costs

Eliminating unnecessary medical and rehabilitative services while ensuring that appropriate care is delivered to employees requires development of a utilization review and case management function in the workers' compensation system. Early, specific diagnoses should be required, perhaps using standardized interdisciplinary protocols, and timely medical reports should be required. Case review should be routinized, particularly for soft tissue injuries. Medical deductibles, payment of medical costs without prejudice, and restriction of expensive diagnostic tests to specialists should be considered.

The medical fee schedule should be extended to help restrain cost increases into the future. Limitations should also be placed on the frequency of resort to specified provider services, and return to work should be emphasized. Doctor shopping should be eliminated by restricting the employee choice to some extent. Employees should own some or all of their medical records so that diagnostic tests are not needlessly repeated. Employers should have appropriate access to medical records.

The use of independent medical examiners (IME) utilizing one or more institutional providers to determine all medical aspects of a claim without appeal should be considered. The IME could evaluate impairment, disability, return to work, and rehabilitation. The IME could also conduct utilization review on

major cases at six weeks and make final determinations on the payment of medical expenses.

Cost containment measures which are being used in the health insurance area should be evaluated for possible usefulness in the workers' compensation system. In addition to case management and utilization review, devices such as preferred provider organizations may be appropriate. Generic drugs might be required and provider referrals to facilities in which they have a financial interest prohibited. Disincentives for excessive or unnecessary treatment and incentives for preventive medical services might be considered.

Changes should be made to the rehabilitation system to provide for neutral evaluations upon application of interested claimants. A fee schedule should limit charges to a percentage of SAWW. Self-referrals should be prohibited, and vocational goals should be realistic and mainstream. Rehab should be limited to two years or \$5,000, and the ability of providers to function in the system should be evaluated on the basis of cost and success. Providers should be prohibited from treating claimants and serving as claims managers, and this prohibition should be extended to the parent companies that own common operations. Subcontracting should be limited, and travel from out of state not be reimbursed. Travel and administrative costs should not exceed 30% of the total plan expense, and medical management of claims for carriers or employers should be considered a bar to providing rehabilitation services. Providers should be assigned by the state or a neutral organization

NOTICE OF AGENCY RULE-MAKING PROPOSAL

AGENCY: Workers' Compensation Commission

RULE TITLE OR SUBJECT: Maine Workers' Compensation Commission Rules and Regulations Rule 10.14 - 10.20, Rule 12.2, 12.14, 12.19, 12.24, 16.15, 25.3; Commission Forms M-1, M-2, M-3, M-4, WCC-4, WCC-230, WCC-240, WCC-250.

PROPOSED RULE NUMBER: (LEAVE BLANK - ASSIGNED BY SECRETARY OF STATE)

CONCISE SUMMARY: (SHOULD BE UNDERSTANDABLE BY AVERAGE CITIZEN)

The Commission is proposing rules for the newly created Office of Medical Coordination. In addition, the Commission is modifying some rehabilitation rules, the rule for calculating interest on awards of compensation, and the rule for preparing the record on appeal. Various forms associated with the changes are being created or modified.

STATUTORY AUTHORITY: 39 M.R.S.A. §92

PUBLIC HEARING: (IF ANY, GIVE DATE, TIME AND LOCATION)

April 16, 1992
9:00 a.m. to 12:00 noon
Penobscot Auditorium
Augusta Civic Center
Augusta, Maine

DEADLINE FOR COMMENTS: April 30, 1992

AGENCY CONTACT PERSON:

NAME: Sandra Hayes
ADDRESS: Workers' Compensation Commission
State House Station #27
Augusta, Maine 04333
PHONE NUMBER: (207) 289-7070

March 16, 1992

10.14 Independent Medical Examiners

- A. To be eligible to participate in the independent medical examination program, all health care providers must complete an application indicating compliance with the following criteria. All applications shall be subject to the approval by the Office of Medical Coordination.
1. The provider must be licensed/certified by the State of Maine.
 2. The provider must undergo independent medical examination training by December 1993 which is approved by their professional association and the Office of Medical Coordination, Maine Workers' Compensation Commission. Exceptions will be granted only with the approval of the Medical Coordinator.
 3. The provider must have been practicing in their discipline within the past five years.
 4. The provider must devote no more than 50% of their professional time to performing independent medical evaluations. With the exception of a provider whose practice is devoted to occupational medicine and/or chronic pain assessment and management.
 5. The provider must submit to an annual review by the Office of Medical Coordination concerning the timeliness of submission of medical findings, completeness of requested questions, and quality of reports.

6. The provider must abide by these rules and regulations.

B. A provider is not eligible to be assigned to a particular workers' compensation case, in the following circumstances:

1. The provider is the employee's treating health care provider and has treated the employee with respect to the injury for which benefits are being paid.

2. The provider has examined the employee at the request of the insurance company or pursuant to Section 65 during the 52 weeks preceding the request for the examination.

C. To request an independent medical evaluation under section 92-A the requesting party must:

1. Complete Commission form M-2, and file it with the Office of Medical Coordination.

2. Provide an index of all pertinent medical records including all health care providers since the date of injury to the Office of Medical Coordination with the M-2 form.

D. The Medical Coordinator shall forward the request to the commissioner presiding in the area in which the employee resides. If the commissioner fails to act within five working days after the commissioner's receipt of the M-2, the Medical Coordinator may designate the independent medical examiner.

E. In determining whether to order an independent medical evaluation, the commissioner shall consider the following factors:

1. Nature of dispute.
2. Adequacy of existing medical information.
3. Delay in the proceedings.
4. Financial cost to all parties.
5. Any other factors relevant to the case.

F. 1. If the commissioner selects an independent medical examiner, the commissioner shall issue a notification of the examiner's name, and the date, time, and location of the independent medical exam, by regular mail to the examiner, all parties, and the Office of Medical Coordination. The Medical Coordinator shall assure that prompt, expeditious, and fair examinations are arranged.

2. If the Medical Coordinator selects the independent medical examiner, the Medical Coordinator will follow the same selection procedure and shall, in addition, identify the independent medical examiner to the presiding commissioner to whom the report is to be sent.

G. An independent medical examination under Section 92-A may be requested at any time.

10.15 Independent Medical Examinations

- A. Questions relating to the medical condition of the employee may be requested by the use of the M-2 form. The independent medical examiner at their discretion, may contact the employee and/or prior treating health care providers. All other communication between the examiner and the parties must be in writing and copied to all opposing parties and the Commission no later than seven days prior to the independent medical examination. All medical records or other pertinent information must be forwarded to the examiner no later than seven days prior to the scheduled exam. All medical records must be in chronological order accompanied by the index.
- B. Upon completion of the examination, the examiner shall provide the employer, employee, the Medical Coordinator, and the commissioner presiding in the area where the employee resides with a report and attached invoice no later than 14 days after the examination, unless the parties agree to a later date. If a party is represented by counsel the report may be sent to counsel, instead of to the party directly. The Medical Coordinator may approve an extension if needed by the examiner. The examiner's report shall include all of the information requested on the M-2 form in concise narrative form.
- C. Independent medical examinations will have a maximum charge of no more than \$450.00. The employer shall pay for the independent medical examination. Exceptions to this maximum amount may be approved by the Office of Medical Coordination.

- D. Disputes over the costs of the independent medical examination will be initially addressed to the Office of Medical Coordination for an informal recommendation. If the parties do not accept the informal recommendation, the dispute will be referred to a commissioner for formal resolution.
- E. Prior to the first formal hearing date, any party may set a deposition of the independent medical examiner without permission of the Commission. At the hearing the commissioner will determine whether further deposition, either scheduled or unscheduled, is justified. Cost of the deposition will be the responsibility of the party noticing the deposition. Deposition fees will be subject to the provisions set forth in Chapter 10 of the Workers' Compensation Commission Rules and Regulations, Appendix II-F.

10.16 Employee Expenses

Expenses incurred by the employee attending an independent medical examination pursuant to 39 M.R.S.A. §92-A are to be paid for by the employer using the following rates of reimbursement.

- A. 22 cents per mile for mileage reimbursements.
- B. \$45.00 per evening for overnight lodging. Reimbursement for overnight lodging shall be allowed only when the employee has traveled more than 150 miles, one way, from the employee's place of residence.
- C. \$12.00 for dinner, \$6.00 for lunch, and \$4.00 for breakfast.
- D. Actual charges for tolls, accompanied by a receipt.

10.17 Changing Health Care Providers.

- A. If the employee wishes to change health care providers after the employee's two selections under Section 52, the employee must initially seek and obtain approval of the employer or insurer in order to treat with a third primary physician. If the employer does not approve of the change in health care providers, the employer must complete an M-4 form within seven days of request and submit the form to the Office of Medical Coordination.
- B. Upon receipt of a timely filed M-4, the Office of Medical Coordination shall assign an independent medical examiner to review the matter. The examiner may conduct such investigation by any reasonable method including, but not limited to, telephone contact with all parties and treating health care provider, written contact with all parties, or review of written medical records.
- C. The examiner may request such information and records as are needed to render a decision. This process will be paid for by the employer.
- D. The employee shall notify the employer of a change in health care providers within ten days of the change.

10.18 Reports of Primary Health Care Providers

- A. The primary health care provider shall submit medical reports to the employer and employee on Commission form M-1 within the five days prescribed in 39 MRSA Section 52-A (2). No signed medical authorization shall be required. The charge for these reports shall be included in the health care provider's charge for the office visit, but shall be a separate entry on the statement.

B. The primary health care provider must submit updated medical reports on an M-1 form every 30 days as long as the health care provider has evaluated/treated the patient within the previous 30 days. No signed medical authorization shall be required. The charge for these reports shall be included in the health care provider's charge for the office visit, but shall be a separate entry on the statement.

C. No signed medical authorization shall be required for issuance of the final medical report. The charge for these reports shall be included in the health care provider's charge for the office visit, but shall be a separate entry on the statement.

10.19 Medical Utilization Review.

A. Utilization review may be requested:

1. When treatment or the plan of treatment exceeds the protocols set for that diagnosis by the Office of Medical Coordination; or
2. When there are no protocols set for the specific diagnosis, and the injured employee has received treatment for three months; or
3. When there is a question of whether proposed surgery is reasonable and necessary.

B. To request a Utilization Review under section 52-D, the requesting party must:

1. File Commission form M-3 with the Office of Medical Coordination along with questions to be addressed by the independent medical examiner.

2. Provide all pertinent medical records including results from diagnostic testing or actual diagnostic tests such as but not limited to x-rays, CT scans, and MRIs; in chronological order, generated by the health care provider being reviewed.

- C. An independent medical examiner will be assigned within 15 days of receipt of the completed M-3 form, by the Medical Coordinator. All parties will be notified of the independent medical examiner assignment by the Office of Medical Coordination including the provider being reviewed.

- D. The independent medical examiner shall submit findings and recommendations to the requesting party, the provider and the Commission within 30 days from the appointment of the examiner unless the examiner requests a physical examination or further diagnostic testing, in which case the examiner shall submit findings within 30 days from the date of the examination or diagnostic testing. The physical examination or diagnostic testing shall take place within 14 days after the independent medical examiner determines a physical examination or further diagnostic testing is necessary.

- E. Each health care provider performing medical evaluations will be reviewed annually on timeliness of submission of medical findings, and the quality of the report. If the medical examiner fails to abide by these rules and regulations, the medical coordinator may take such action as is necessary including removal of the examiner from the independent medical examiner program.

F. The maximum fee for utilization review is \$125 per half hour or any fraction thereof and \$62.50 per 1/4 hour thereafter paid for by the party requesting utilization review.

10.20 Case Management.

A. Case management may be requested:

1. When medical treatment exceeds six months or when it is anticipated medical treatment will exceed six months;

or

2. When medical expenses exceed \$10,000.

B. Any party, requesting Case Management, shall file a Commission form M-3 with the Office of Medical Coordination.

C. Any party after receiving notification of request for Case Management must submit all medical records, including diagnostic testing results, in chronological order to the Office of Medical Coordination.

D. The Medical Coordinator shall select the independent medical examiner(s) to serve as a case manager.

E. If more than one independent medical examiner is assigned, the case management team must have an initial meeting to review the case within 15 days of assignment.

F. The independent medical examiner(s) may request an interview with the health care provider, the employee, and all other interested parties.

- G. A written narrative report of the independent medical examiner(s) assessment regarding diagnosis, treatment, and plan of care shall be submitted to the parties, requester, provider, and the Office of Medical Coordination within 30 days of assignment.
- H. Recommendations for alternative or additional methods of care may be proposed by the independent medical examiner(s) to the current health care provider.
- I. Recommendations must be reviewed by the current health care provider, and if not adopted the current health care provider must state in writing the reasons for not implementing these recommendations.
- J. If a dispute occurs between the current health care provider and the independent medical examiner(s), the Medical Coordinator shall meet with the independent medical examiner(s) and health care provider to resolve this dispute. If no resolution is obtained, then any employee, employer, insurer or provider that seeks to implement the recommendations of the independent medical examiner(s) or that seeks resolution of a dispute related to the treatment under review may file a petition with the Commission.

STATE OF MAINE
WORKERS' COMPENSATION COMMISSION

Practitioner's Report: | Type of Practitioner:
___ Initial ___ Progress ___ Final | MD ___ DO ___ DC ___ Other ___

EMPLOYEE'S INFORMATION: NAME: (FIRST) (MIDDLE) (LAST) | PHONE: _____

EMPLOYER | INSURANCE CARRIER | TREATING PHYSICIAN

DATE & TIME OF INJURY | WHERE INJURY OCCURRED CITY, TOWN | EMPLOYEE'S SSN | DATE OF BIRTH

1. DESCRIBE HOW THE INJURY OCCURRED. WHAT ARE YOUR PRESENT SYMPTOMS?

2. PLEASE LIST ANY PRACTITIONER WHO HAS TREATED YOU FOR THIS INJURY
1) _____ 2) _____ 3) Referred by: _____

I HEREBY CONSENT TO RELEASE THE INFORMATION BELOW TO MY EMPLOYER/
INSURANCE CO. SIGNED: _____

1-A. PATIENT'S COMPLAINTS

1-B. CURRENT DIAGNOSIS | ICD-9 CODE/DSM III CODE

2. HAVE DIAGNOSTIC TESTS BEEN PERFORMED? ___ YES ___ NO
RESULTS: _____

3. DATE OF THIS EXAMINATION: _____ TREATMENT TO CONTINUE _____
DATE PATIENT TO BE SEEN AGAIN: _____

4. ESTIMATED LENGTH OF TREATMENT? | TREATMENT PLAN?

5. IS THIS INJURY DUE TO WORK ACTIVITY? ___ YES ___ NO ___ UNKNOWN

6. IF UNABLE TO WORK, ADVISE ESTIMATED DATE OF RETURN: _____

7. WORK CAPACITY: ___ Regular Duty ___ With Restrictions

- ___ No repetitive bending
- ___ No repetitive twisting
- ___ Limited bending, twisting
- ___ No lifting
- ___ May lift ___ lbs. Occasionally <0-33% Frequently <33-66%
- ___ Push/Pull _____
- ___ 1 hand 1 arm work
- ___ Repetative hand use L ___ R ___
- ___ None ___ OCC ___ Frequently ___
- ___ Other _____
- ___ Avoid vibratory tools
- ___ Avoid cold
- ___ No prolonged standing/sitting
- ___ No overhead, shoulder level, or below waist work ___ arm

SIGNATURE OF PRACTITIONER/DATE

PRINT NAME: _____
ADDRESS: _____

PHONE: _____
NARRATIVES ATTACHED _____

Office of Medical Coordination
Workers' Compensation Commission
State House Station #27
Augusta, ME 04333-0027

M-2

Independent Medical Exam Request

INSURER:
Name _____
Address _____
Phone _____

EMPLOYEE:
Name _____
Address _____
Phone _____

COMMISSIONER:
Name _____
Address _____
Phone _____

EMPLOYER:
Name _____
Address _____
Phone _____

Injury: _____

Information to be included and issues to be addressed on this independent medical examination report concerning the above employee.

- ___ History of present illness.
- ___ Medical history of treatments and results of those treatments.
- ___ History of other medical conditions and present status.
- ___ Current status of patient's medical condition including any present patient complaints.
- ___ Physical examination.
- ___ Review of test results.

Examiner's Findings:

- ___ Diagnosis
- ___ Medical Causation
- ___ Diagnostic recommendations
- ___ Therapeutic analysis and recommendations
- ___ Work capacity
- ___ Expected duration of incapacity
- ___ Expected maximum medical improvement date
- ___ Permanent impairment
- ___ Consistency of objective findings vs. subjective of complaints.
- ___ Possibility of involvement of non-physical factors (i.e. psychosocial).
- ___ Need for Utilization Review/Case Management.
- ___ Other

***** FOR COMMISSION USE ONLY *****

Independent Medical Examiner _____
(Name)

(Address)

Date of examination _____ Time of examination _____
Assigned by: _____

Office of Medical Coordination
Workers' Compensation Commission
State House Station #27
Augusta, ME 04333-0027

M-4

HEALTH CARE PROVIDER #1:

Name _____
Address _____
Phone _____

HEALTH CARE PROVIDER #2:

Name _____
Address _____
Phone _____

HEALTH CARE PROVIDER #3:

Name _____
Address _____
Phone _____

HEALTH CARE PROVIDER #4:

Name _____
Address _____
Phone _____

Injury: _____

Reason for denial to change health care providers:

***** FOR COMMISSION USE ONLY *****

Practitioner/s:

_____	_____
Name	Name
_____	_____
Address	Address

Assigned by: _____

LABOR COMMITTEE

WORKERS' COMPENSATION ISSUES

I. MEDICAL ISSUES

1. UTILIZATION REVIEW

- a. strengthen employer/insurer's requirements to perform utilization review
- b. establish an I.M.E. system to perform reviews
- c. establish uniform treatment protocols
- d. others?

2. MEDICAL TREATMENT

- a. limit chiropractic treatments
- b. limit the number of providers chosen by employee
- c. limit the number of I.M.E. referrals by employer/insurer
- d. require use of generic drugs when possible
- e. limit the number of diagnostic tests permitted
- f. require I.M.E. case management for older high-cost cases
- g. others?

3. PRODUCTION OF MEDICAL REPORTS

- a. require employee to provide medical reports
- b. repeal requirement for signed authorizations -- make filing of a claim an automatic release for records
- c. add authorization form to the First Report form and increase Commission's role in obtaining authorizations
- d. limit the type/form of medical records requested
- e. establish fee schedules for production of reports
- f. establish time limits on provider response to requests for records

- g. require automatic initial and/or periodic medical reports from the treating provider
- h. provide that employee "owns" his medical records and provider must transfer them upon request
- i. others?

4. MEDICAL DETERMINATIONS

- a. use social security disability staff to make all medical examinations/determinations
- b. establish certain hospitals as I.M.E. centers for workers' compensation determinations
- c. allow commission/employer/insurer option to require a binding I.M.E. report
- d. require I.M.E. to determine all medical issues, including MMI, degree of permanent impairment, suitability to return to work, degree of incapacity, utilization disputes and others
- e. make I.M.E. determinations binding upon commission and courts; appeal to a 2nd I.M.E.
- f. others?

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- f. others?

BLUE RIBBON COMMISSION

Outline of Presentation

David R. Clough
State Director/Maine
National Federation of Independent Business

June 1, 1992

1. Background on NFIB & Small Business
 - a. 6,000 members in Maine
 - b. #1 Issue
 - c. Primary source of new jobs & new wages during 1980s
 - d. Most likely source of new jobs & wages in 1990s
 - e. Payroll taxes particularly burdensome
 - i. tax on labor & wages
 - ii. relative payroll costs higher for small business
 - iii. must pay regardless of sales or profit

2. Workers Compensation Crisis in Maine
 - a. Taking heavy toll on small business
 - b. Face a grim outlook

3. Insurance Issues
 - a. Recognize "inverted bell" of coverage
 - b. Group self-insurance option for many, but not most
 - c. Commercial insurance market
 - i. NFIB members support competitive rating
 - d. Assigned risk market
 - i. Note APA rates 20% higher (not including other "penalties")
 - e. Alternatives to Group Self-insurance/Voluntary Market/Assigned Risk
 - i. State Fund
 - ii. Employers Mutual Fund
 - (1) single fund
 - (2) experimental groups within fund
 - (a) homogeneous
 - (b) heterogeneous
 - (c) statewide
 - (d) geographic area
 - (e) industry classes
 - iii. Very small employer threshold exemption
 - iv. Very small employer alternative coverage option
 - f. Rates & premiums

- i. cannot afford current premiums
 - ii. cannot afford pending increases
 - iii. cannot afford Fresh Start Surcharges
 - g. Other "insurance" issues
 - i. deductibles
 - ii. merit rating & experience rating
 - iii. 24-hour coverage/disability insurance
- 4. Safety Issues
 - a. Are Maine employer's really thoughtless and uncaring?
 - b. firms with fewer than 20 employees generally better than average
 - c. key concern; should be emphasized
 - d. safety committees -- small business concerns
- 5. Benefits & Claims Administration
 - a. Not attempt to duplicate recommendations of others
 - b. Issues of key concern to small business owners
 - i. rehabilitation
 - ii. return-to-work
 - iii. screening of "bad" risk
 - iv. impact of ADA
 - v. exclusive remedy erosion
 - vi. compensability
 - vii. fraud (both sides)
 - viii. medical costs
 - ix. offsets
 - c. Workers Compensation Commission
 - i. information
 - ii. backlog
 - iii. budget cuts
 - iv. ombudsman
- 6. Labor-Management Group -- Michigan Option
 - a. "Any state is better than Maine" feeling among NFIB members
 - b. Maine's system a lemon; "repairs" not working
 - c. Key differences
 - i. types of employees/employers covered or exempted
 - ii. benefit comparisons
 - iii. rate comparisons
 - iv. entirely difference insurance market
 - d. Neither embrace nor reject idea

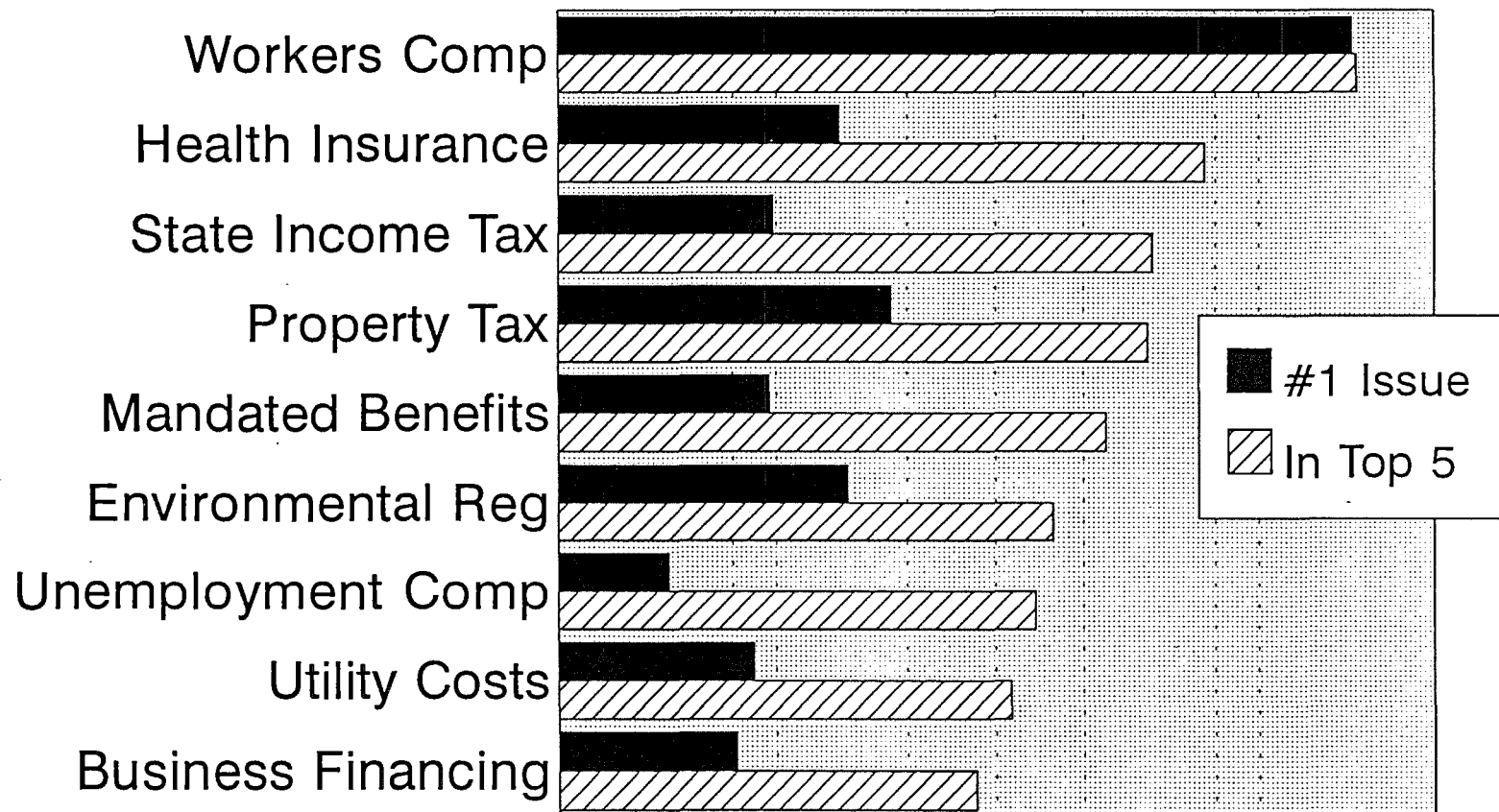
- i. concerned about throwing out "good" with "bad"
- ii. concerned about some unknowns
 - (1) impact of Michigan law changes
 - (2) impact of Michigan rules changes
 - (3) impact of Michigan court or commission decisions
- iii. what makes Michigan more "affordable" than Maine
- e. Competitive state fund key criterion
- f. At least labor-management agreed on something significant

7. Challenges for Blue Ribbon Commission

- a. Bring Maine's costs into line with other states (national average)
 - i. set goal of reducing costs to the national average by 1995
 - (1) develop "business plan"
- b. overcome effects of pending rate case & Fresh Start surcharges
- c. Note other payroll tax increases facing business/small business
 - i. state unemployment taxes
 - ii. group health insurance premiums
- d. Opportunity to design system
 - i. fair to employees
 - ii. affordable to employers
 - iii. position Maine for expected cost impacts of 1990s

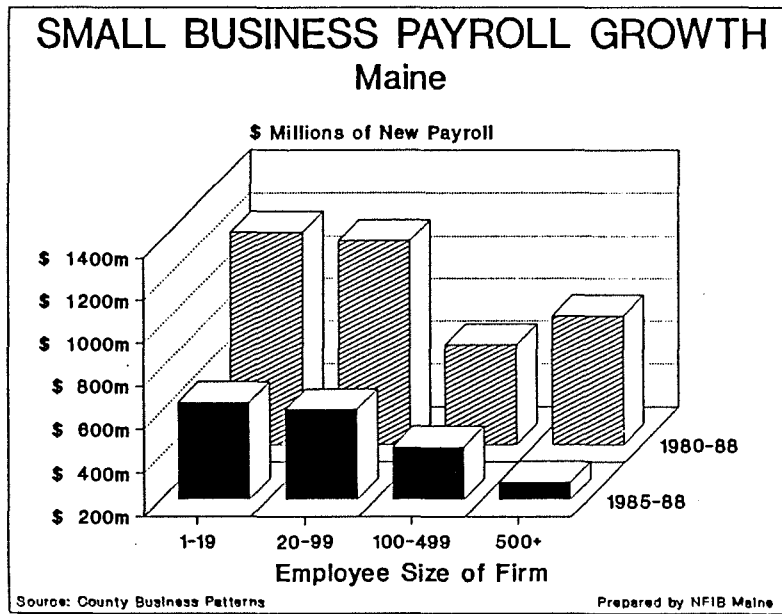
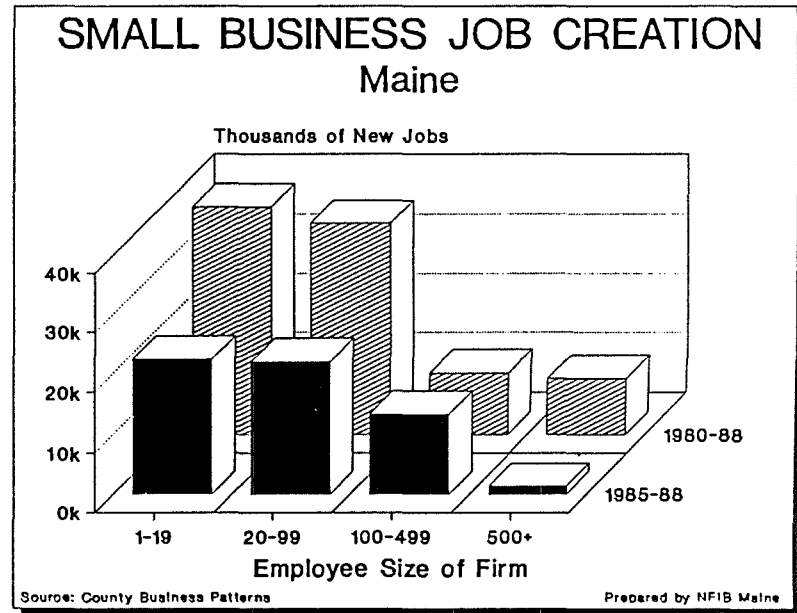
TOP SMALL BUSINESS ISSUES

NFIB/Maine 1992 State Issues Ballot



SMALL BUSINESS Key to Maine's Future

- Economic Backbone of Maine
- The "Little Engines" That Can
 - Created Over 7 of 10 New Jobs (1980s)
 - Paid Over \$60 of \$100 New Wages (1980s)
- Key to Maine's Economic Progress
- 1 New Job Per Sm Bus = 30,000+ New Paychecks



SMALL BUSINESS Key Actions Needed

- ✓ No New Taxes; No More Tax Increases
- ✓ Workers Compensation Cost Cuts
- ✓ Regulatory & Paperwork Relief
- ✓ State Budgeting Reform
- ✓ Small Business Impact Analysis
- ✓ Affordable Health Insurance
- ✓ Support for Small Business Owners' Needs

Rising worker compensation costs worry small firms (Marsh, Barbara)(Wall Street Journal, 12/31/1991) ●
(Available on request-please include the following citation: WC115-BRC-10-291.pdf)

To obtain items available on request, or to report errors or omissions in this history, please contact:
[Maine State Law and Legislative Reference Library](#)

Workers' comp complaints (Jennings, Jim) (State Spotlight, September/October 1991) ●
(Available on request-please include the following citation: WC115-BRC-10-292.pdf)

To obtain items available on request, or to report errors or omissions in this history, please contact:
[Maine State Law and Legislative Reference Library](#)

The cost of workers' comp: What a nightmare, It could be worse – Just ask Maine (Christianson, Robbin K.) (State Spotlight, May/June 1990) ●

(Available on request-please include the following citation: WC115-BRC-10-293.pdf)

To obtain items available on request, or to report errors or omissions in this history, please contact:

[Maine State Law and Legislative Reference Library](#)

ADMINISTRATION IN WORKERS' COMPENSATION ISSUES

Outline of Presentation

Peter S. Barth
Professor of Economics
The University of Connecticut
February 6, 1990

1. Tendency to focus on other issues in workers' compensation such as benefits coverage, health care.
2. Much of what characterizes a state system is administration. The application of the statute and the decisions of courts.
3. What is meant by administration? What does it cover?
 - Reporting requirements
 - Hearings
 - Appeals
 - Terminating benefits
 - Appropriate medical treatment
 - The use of medical neutrals
 - Penalties
 - Attorney fees
 - Approving self insurance
 - Staffing the agency
 - Screening and referral to rehabilitation
4. Does administration matter? Examples.
 - Delays - reconfiguring the system
 - Trial de novo
 - Judges forcing settlements
 - Attorneys required to receive lump sums
 - Low benefit maxima lead to system reallocation
5. State agency approaches - a continuum
 - A. a. No agency.
 - b. Bare bones. Adjudication.
 - c. More hands-on. Administer self-insurance, review settlements, mediation and informal methods of dispute resolution.
 - d. An active agency. Approve health care providers, screen for rehabilitation, linkage to health and safety function, impose penalties, etc.
- B. a. Characterization. A lawyer driven agency vs. an administrative system. Tort vs. administration.

6. Disputes regarding #5 are to be expected. Goals can be agreed upon in principle. The system should provide:
 - Speedy resolution
 - Compliance with the law
 - Equity
 - Information for program assessment and management guidance
 - Cost constraint for the agency
 - Low transaction costs for the parties
 - Exclusive remedy
7. Causes of poor administration.
 - A complex system
 - The political process
 - Historic disinterest by some of the parties
 - Vested interests
8. Steps to improve administration.
 - Early involvement by the parties
 - Identification of common interests. Advisory Councils.
 - Adequate funding

MAJOR BENEFIT ISSUES FACING WORKERS' COMPENSATION SYSTEM

Outline of Presentation

Dr. Richard B. Victor
Executive Director
Workers' Compensation Research Institute
February 6, 1990

1. Workers' compensation systems provide a variety of benefits:

- medical care and rehabilitation
- income benefits for periods of temporary disability
- income benefits for permanent partial/total disability
- income benefits for survivors of deceased workers
- vocational rehabilitation

2. This presentation examines issues related to income benefits and vocational rehabilitation.

3. Income benefits: we focus on benefits for temporary disability and permanent partial disability, since they account for 98 percent of lost-time claims, 90 percent of nonmedical payments, and most of the public debate. Claims with permanent partial payments constitute about 30 percent of claims, but 70 percent of payments.

4. Lessons regarding temporary total disability (TTD) benefits:

- * Most workers receive benefits that replace between 80 and 100 percent of their after-tax loss. In a typical state, 4 out of 5 workers fall into this category.
- * Despite this, benefits are maldistributed in most states. In part, this results from unusually high or low maximum benefits or unusually high minimum benefits. In almost all states a significant fraction of workers (at least 10 percent) receive benefits that replace less than 80 percent or more than 100 percent of their after-tax loss.
- * When benefits are based on a percentage of a workers' before-tax (gross) income, policymakers face a Hobson's choice. Attempts to reduce the fraction of workers with lower levels of income replacement will inevitably increase the fraction of workers with higher levels of income replacement; and vice versa.
- * Benefits based on a percentage of after-tax income provide a more even distribution of benefits. Four states use this approach. In Michigan, for example, 95 percent of workers receive between 80 and 100 percent of their after-tax loss.
- * When benefits increase, the use of the TTD benefits increase. Research shows that, as a rule-of-thumb, a 10 percent increase in benefits yields, on average, a 5 percent increase in use: a 3 percent increase in claims and a 2 percent increase in disability duration.
- * Economic downturns increase use of the system. In Texas, for example, the average payment for TTD grew nearly twice as fast during the recession as it had during the economic expansion in the state. This was also true for permanent disability benefits.

- 2 -

5. Lessons regarding permanent partial disability (PPD) benefits:

- In concept, states use 3 principal approaches to paying benefits to workers for injury consequences that persist after the workers reach maximum medical improvement. In practice, most states combine 2 approaches. The approaches are:
 - Physical impairment: payments for the residual physical consequences of injury, without regard to the economic consequences.
 - Loss of earning capacity: current payments for future lost earnings as a result of the injury.
 - Loss of actual wages: payments for actual lost wages made upon proof of loss.
- Each approach is often a major source of litigation. Each requires the parties to prove something that is inherently difficult to know. For impairment, by what percentage is the worker's physical ability limited? For loss of future earnings, what would the worker have earned in the absence of the injury and what will the worker earn with the disability? And for actual loss of wages during a specific time period (e.g. 1 month), is the loss a result of the injury or would it have occurred anyway?
- Benefits are maldistributed. Those with minor disabilities are often overcompensated, while those with serious disabilities are often undercompensated. For example, a California study found that those with minor permanent disabilities received benefits that exceeded their actual loss, but those with the most serious disabilities received less than 50 percent of their loss.

6. Lessons regarding vocational rehabilitation (VR):

- VR includes a wide range of services aimed at facilitating prompt return to work. These services may be as extensive as schooling or retraining, or may be as limited as counseling and job placement.
- A common public debate is whether or not to "mandate" VR, that is, to create an entitlement to VR services. During the past decade the pendulum has swung toward mandatory VR (e.g., CA, MN, FL, WA, CO) and then away (FL, WA, CO) toward a much more limited role. The principal reason for the reversal is cost.
- VR can be an expensive benefit. Research shows that VR is 16 percent of benefits in CA and 8 percent in FL.
- In addition to costs, the core issues surrounding public debates on VR include:
 - Cost-effectiveness: There is little convincing evidence on the cost-effectiveness of VR.
 - Targeting. The previous statement doesn't mean that VR is rarely cost-effective; nor does it mean that it is frequently cost-effective. In fact, the issue is better stated as: for what types of workers (and circumstances) is VR cost-effective? That is, targeting VR to those most likely to benefit. Yet we lack solid evidence about cost-effective targeting criteria.

- 3 -

-- Services: Workers may receive expensive services like schooling and training, or less expensive services like counseling and job placement. California emphasizes the former; Florida emphasizes the latter. On average, schooling costs twice as much as placement. One study found that the more expensive services did not produce commensurately better outcomes.

-- Timing: The effectiveness of VR often depends on when services are provided. VR providers often tout the virtues of early intervention. But how early? A Florida study concluded that employers and insurers could save \$6 million each year, and increase workers' earnings by \$9 million, by conducting an assessment of readiness for VR in accordance with current practices, but no later than 6 months after injury.

7. SUMMARY: KEY ISSUES RAISED

- Temporary disability benefits: what are the desired levels and distribution of income replacement?
- Permanent partial disability benefits:
 - What is the purpose of PPD benefits?
 - What is the desired distribution?
 - What is the least litigious way of delivering them?
- Vocational rehabilitation benefits:
 - Targeting, timing, service mix?

**Testimony Before the Blue Ribbon Commission
Studying Workers' Compensation Reform
June 1, 1992**

Presented by

Maine Chamber of Commerce and Industry

Good afternoon. My name is Jack Dexter. I reside in Edgcomb and serve as President of the Maine Chamber of Commerce and Industry. I appreciate the opportunity of appearing before you this afternoon.

As we see it, you have been asked to solve three problems threatening the workers' compensation coverage that Maine employers provide to their employees. The three are:

* the likely collapse of the private insurance system by year's end;

* the need to craft a new workers' compensation system for the long haul;

* the unaffordability of pyramiding past losses from Fresh Start.

Solutions for all of these must be ready for legislative consideration by fall.

Background

Maine's workers' compensation system is failing to serve its two major constituents: employers and employees. Injured workers don't receive benefits quickly and are out of work much too long. Employers pay a horrible price for their insurance. While these two constituencies are aggrieved by this system and at loggerheads over it, lawyers and providers prosper under it.

The benefits of the long and short term fixes must enure totally to the two constituencies of employer and employee. These goals should be:

- * prompt fair treatment for injured workers;
- * an affordable system that enables Maine employers to be competitive;
- * a safer workplace.

The Options for Long Term Change

Two options for longer term change have been laid before the Blue Ribbon Commission. These are:

- * adoption of the Michigan System;
- * a conceptual proposal by the Maine Council of Self-Insureds.

The Maine Chamber supports aspects of both proposals and adds some additional recommendations to the pool of potential solutions. Our positions are based on interviews conducted with knowledgeable individuals in Maine and Michigan including representatives of companies doing business in both states. The interviews were conducted by James Alexander of the firm of Alexander Schmidt.

The Michigan System

The Maine Chamber embraces some aspects of the Michigan workers' compensation system. We are unable to embrace others. We believe what separates Michigan from Maine and makes the Michigan System work better are cultural differences and not the nuts and bolts of the Michigan law. Most significant of these differences is the willingness and commitment of labor and business to work together toward common goals. Regardless of the shape of workers' compensation reforms eventually enacted by our legislature, we must commit ourselves to exploring the cultural differences between the two states and to adapting Michigan's apparently better labor-management atmosphere to Maine. Although this won't produce any short-term financial relief it is worth pursuing for its own sake.

Six aspects of the Michigan System specifically seem worthy of further study. If they stand up to detailed scrutiny, we believe Maine should adopt them. The six are:

1. The positive working relationship between business and labor.

We are intrigued with the concept of labor-management councils. However, we do not believe that business should have veto power over a labor person's access to the legislature or vice versa. The concept of labor and management working together to arrive at a mutually agreeable solution is one we heartily endorse. An appropriate mechanism for this should be explored.

It is imperative that labor-management groups be perceived to be representative of all labor and business if divisiveness is to be avoided within the labor and business ranks. This will necessitate a system for choosing representatives.

It should be emphasized that government should not be needed to make such cooperation happen.

2. A streamlined administrative process. Although our interviews produced mixed reviews, some believe the Michigan System is particularly characterized by rapid claims handling and qualified administrative personnel interfacing with business and labor. In any case, Maine needs an efficient system which pursues twin goals of quickly and fairly paying claims while working to get people back to work. In addition, lawyer's have to be removed from the system to the largest extent possible.

A complete overhaul, if not total replacement of the current Maine Workers' Compensation Commission may be necessary if we are to achieve the necessary dramatic shift in operations.

3. Medical cost containment provisions. In Michigan fee and payment schedules which apply to medical payments are in force, and employers select doctors, at least initially. Maine needs to move quickly along these lines. The Maine Medical Assessment Foundation's comment on reducing unneeded medical procedures should be aggressively built on.

4. Contingency attorney fee system. Attorneys are paid a percentage of the recovery, if recovery is made. Fees payable are based on a percentage schedule.

5. Safety and injury prevention promotion. A "safety, education and training fund" provides safety counseling/inspections to employers who ask for safety assistance. Additionally, training films, pre-OSHA inspections, and incentive programs promote safety. This might build on what our Bureau of Labor Standards is

already doing.

6. Open, competitive workers' compensation rate setting (coupled with a number of management groups within the residual market as proposed by the Maine Council of Self-Insurers or the Kany-Mitchell bill).

All of the above will need to be considered in the light of Maine's different culture and the current state of decay in our workers' compensation infrastructure. The Chamber believes, however, that in these areas Michigan offers a model or framework that we should look at as we build our own solutions to our workers' compensation problems.

To the above specifics, we would like to add the following:

* It may not be politically possible to address benefits and solve the current crisis in a timely way. Further, keeping labor and management at the table is the best way to ensure lasting peace around workers' compensation and to keeping the door open for further collaborative action between business and labor. For this reason, we recommend that every possible avenue to contain providers, legal, and administrative costs be explored before benefits are placed on the table.

* Although we disagree that Maine's workplaces are the most dangerous in the nation, we share with labor the belief that work sites, no matter how safe they now are, are never safe enough. Our own commitment to safety is evidenced by our "Safety Sharing" monitoring program and our workshops and tapes on safety issues.

Employers which fail to meet certain safety parameters in Maine are now required to institute safety training programs. Such programs and those who deliver them should meet minimum standards. These could be delivered by both the Bureau of Labor Standards and by private parties or run in-house. This concept might be taken further by encouraging all employers to have such programs.

* In addition to reducing injury, the best way to reduce comp costs is to get injured workers back to work quickly. The Maine Council of Self-Insureds "light duty pool" concept should be vigorously explored.

* No matter how the solutions to the current crisis evolve, one thing they must not do is negatively impact those companies that have seized the safety initiative and/or have gone self insured. Companies that have acted responsibly in this way should not be deterred from their

efforts or deprived of the fruits they have earned.

The Likely Collapse of the Residual Market

Even if you adopted another state in total, which we hope you do not, it will not solve the crisis in the residual market. The concepts developed by Senator Kany and Representative Mitchell, and the concepts outlined by the Maine Council of Self-Insureds are remarkably similar in addressing this issue. Meetings have been underway to make them more so. We are participating in these and support them.

Because you have already heard testimony on the Maine Council of Self-Insureds and the Kany-Mitchell proposals, I won't repeat them. Suffice it to say, we support the following concepts for managing the residual market crisis:

- * deregulation of private insurer rates and exempting private carriers from residual market charges;

- * expedited attention to the processing of applications before the Bureau of Insurance for groups becoming self insurance trusts (The Maine Chamber is attempting to establish such a trust);

- * the creation of business groups (the exact number to be determined) to pool their risks and manage, like self insureds, their own workers' compensation without joint and several liability;

- * the continuation of an Accident Prevention Group;

- * the separation of the guarantee funds standing over the voluntary and residual entities one from another and from the self insureds.

Fresh Start Liabilities

Former Insurance Superintendent Joe Edwards suggested a \$250 million rate increase or a \$250 million system cost reduction would be necessary to absorb Fresh Start losses. We cannot afford the former without devastating the economy and the latter is, as we have stated earlier, likely to be politically very difficult. The most politically acceptable option to deal with this problem, though it won't be without controversy, is retroactively applying reforms to the already injured population.

Many of the 1991 reforms dealt with getting people back to work. Hopefully, the Commission will make recommendations that will further enhance back to work opportunities. I believe these should be applied to those injured people already in the system.

Conclusion

The opportunity for major workers' compensation reform exists. Thanks to the "Group of 16", labor and management seem willing to collaborate on solutions. If the needs of the only two constituencies that really matter . . . employees and employers . . . are kept in the forefront, real progress is possible.

Regrettably, progress will not come from adopting someone else's system. It will only come from assembling a Maine specific solution. We are eager to assist you in that task.



Senator Judy Kany
District 17
State House Station 3
Augusta, Maine 04333

P.O. Box 508
Belgrade Lakes, Maine 04918

THE MAINE SENATE
115th Legislature

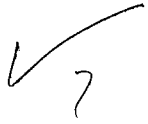
June 1, 1992

STATEMENT TO THE BLUE RIBBON COMMISSION
TO EXAMINE ALTERNATIVES TO THE
WORKERS COMPENSATION SYSTEM

Commissioners, thank you for the opportunity to share our views. My name is Judy Kany and I serve as the Senate Chair of the Maine Legislature's Joint Standing Committee on Banking and Insurance. With me is the House Chair of our Committee, Representative Libby Mitchell. Also present are the staff attorneys for our Committee and the Labor Committee, Jane Orbeton and Lisa Copenhaver. They serve as non-partisan staff attorneys for the Legislature's Office of Policy and Legal Analysis. Here, too, is Representative Ruth Joseph, a member of our committee who has participated in the debate on workers' compensation for the last decade.

Libby and I were quite new to the issue when we became immersed in it in the spring of 1991. Our first challenge was overcoming the traditional Labor Committee jurisdiction over workers' comp. We held three days of joint public hearings focusing on issue categories instead of the 70 individual bills which had been sponsored. Probably some significant reforms were enacted in July. Some of the 1991 law changes are not yet in effect--medical rules and safety plans, for example.

But even if all of the 1991 reforms were in place, major systemic reform is still needed--especially regarding

1. labor management relations;
 2. administration of the system (or lack of administration --with a judicially oriented Workers' Comp. Commission on the one hand and insurance carrier servicing lacking incentives for loss control on the other hand);
 3. effectively collapsed voluntary and residual insurance markets;
 4. need for a greater focus on occupational health--including prevention, return-to-work and ergonomics;
 5. new procedures need to apply to old cases.
- 

Before we go through the new 1991 law with you and outline our suggestions for revising the collapsed insurance markets, I would like to comment on the Michigan system.

First, the 16 member Labor Management Group's ability to work together and come up with a unanimous recommendation about the Michigan system was the first ray of sunshine on our troubled workers' comp. system. Their ability to overcome great obstacles bodes well for the future of labor/managment relations in this state.

PAGE 3

Besides, I believe Michigan was a good choice. I especially like

- 1) the formalized forums where labor and management together advise,
- 2) mediation and voluntary arbitration which could replace our
current informal conferences and help reduce "controverting", and
- 3) the administration of the system by the Michigan Department of
Labor.

I hope the Blue Ribbon Commission seriously considers the Michigan system and chooses it as the framework--and the backbone--of a new system for Maine. I believe our proposals for the voluntary and residual insurance markets are compatible with Michigan's workers' compensation system.



Senator Judy Kany
District 17
State House Station 3
Augusta, Maine 04333

P.O. Box 508
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THE MAINE SENATE
115th Legislature

June 1, 1992

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MAINE STATE SENATE

State House Station 3
Augusta, Maine 04333

July 31, 1991

To the Editor:

I believe the new workers' compensation law is reasonably fair and will encourage major improvements to the current system--although the improvements will not be as dramatic as those offered by the Democratic version which was vetoed by Governor McKernan.

We have repeatedly heard the terrible truths about Maine's system:

- ** Our insurance premiums are among the highest in the country.
- ** The number and severity of our workplace injuries are among the nation's worst--and injured Maine workers are out of work longer.

Why is our workers' compensation system so outrageously flawed?

1. **SAFETY. THE SYSTEM HAS NOT ENCOURAGED PREVENTION OF WORKPLACE INJURIES.** The cost of the entire workers' comp. system could be reduced by about one half if we cut the number and severity of injuries in half. Common sense dictates a focus on preventing injuries. Finally, the law will reward efforts at safety--and for actual reductions in incurred costs. And most important, Mainers may be saved from pain and disability!
2. **RETURN-TO-WORK. EMPLOYERS ARE RELUCTANT TO RE-HIRE OR HIRE INJURED WORKERS.** Injured workers believe they are blackballed from jobs. And primary care medical providers often do not encourage workers to resume jobs quickly with appropriate restrictions. The new law includes the nation's first mandated trial work period, prohibits the sale and dissemination of blacklists, and tries to prevent disability by looking at the medical aspects of getting people back to work as quickly as medically appropriate.
3. **INSURANCE. LACK OF A NORMAL COMPETITIVE INSURANCE MARKET.** Self insurers account for about one third of Maine's workers' comp. premiums. Only 8 percent of the rest of the premiums are in the voluntary market where insurers assume the usual risk--while insurers assume almost no risk and garner a hefty service fee to render mostly poor service for the 92% of premiums in the residual market. The new law provides potential competition to the private insurers via a competitive state insurance fund--if there is little movement of businesses out of the "assigned risk" pool.

What follows is a listing of problems identified within the current system and how they are addressed in the new law:

CURRENT LAW

NEW LAW

SAFETY

Not addressed.

Safety credits of 5-15% for qualifying businesses. Portion of premium dedicated to workplace health and safety consultations. Mandatory safety plan for employers with worst records.

RETURN-TO-WORK

Requires employers of over 250 to provide 2 years of return-to-work.

Employers of over 200 to provide 3 years of return to work. Prohibits blacklists. Automatic 15 working days for trial work period. Employer's premium protected if worker's prior injury is aggravated.

LIMIT ATTORNEY FEES

10% of lump sum by commission rule.

10% first \$50,000, down to 5% for any over \$100,000.

BENEFITS

Uncertainty as to total economic exposure of insurer so insurers often seek lump sum settlements.

Duration for partial impairment limited to 520 weeks of benefits. Expanded automatic discontinuance with protections.

LACK OF EMPLOYER INVOLVEMENT

Employer often unaware of and does not participate in informal conference, hearing or settlement. All this left to insurance carrier. Breakdown in employer-employee relationship upon injury. A better relationship if self-insured.

Larger businesses required to buy policies with medical expense deductibles so they will feel the effect of experience. Employer must be notified of all significant events during the case. Toll-free 800-line to Workers Compensation Commission for questions.

MEDICAL ISSUES

Little focus on medical issues except while resolving disputes.

Creates Medical Coordinator to ensure occupational health services and oversee independent medical examiners, medical utilization review, and case management. Health cost containment.

INSURANCE

Little involvement in
voluntary market. Costly
premiums and servicing fees.
Delays in payments.
Unnecessary litigation. Poor
quality servicing and
adjusting. Little attention
to "loss control."

Pilot projects allowed which
can use comprehensive health
insurance to cover workplace
injury and illness.
Performance standards for
adjusters. Review of
servicing fees. Limit on
agents' fees for renewals in
the residual market. Enabling
law for competitive state fund
if more businesses not allowed
access to voluntary market.

Most of the new law becomes effective on October 17, 1991 and
applies only to injuries occurring after the effective date. Many of
the provisions affecting insurance premiums become effective January
1, 1992. Copies of the new law are available by calling 289-1649.

Sincerely,



SENATOR JUDY KANY
SENATE CHAIR, BANKING AND INSURANCE
COMMITTEE
(18 West Street, Waterville 04901)
(Phone #495-3857)



MAINE STATE SENATE

State House Station 3
Augusta, Maine 04333

January 1992

To the Editor:

Workers' compensation laws were created to establish a no-fault insurance system whereby employers' liability would be limited and workers injured on the job would see quick payment of their medical bills and receive compensation for lost wages.

While the original goals are commendable, today we must report the following:

1. Maine workers' compensation insurance premiums were costing about \$500 million a year. The Maine Legislature believed that was way too much.
2. Obviously, if there were no workplace accidents or illnesses, there would be no cost.
3. Maine's system needed a comprehensive overhaul and the Maine Legislature enacted major "system" changes last July. Also included in the new law was the formation of two Blue Ribbon Commissions chosen by the Governor and legislative leaders--one to study the Workers' Compensation Commission and one to study the regulation of the insurance industry.

Last spring the Maine Legislature's Committees on Labor and Banking/Insurance heard much the same about Maine's workers' compensation system (or lack of it) as Portland Press Herald reporter Eric Blom outlined in his recent series on workers' compensation.

The combined committees listened to proposals contained in 70 bills in public hearings, read thousands of detailed studies and letters, and gained more input during many public work sessions on proposed changes in Maine's workers' compensation law. We looked at other states' laws and other countries' systems.

FUTURE DIRECTION

We became convinced that workers' compensation public policy should shift its focus away from disputes over where and when an accident or illness occurred and toward prevention and helping make people productive.

- * We believe the emerging national consensus on a universal right to basic health care coverage and resulting federal legislation will help assure necessary medical care regardless of where accidents occur or illnesses originate.

- * We believe the medical payments component of workers' compensation potentially could be covered by comprehensive health insurance policies. Indeed, the new Maine law enacted last summer allows for such pilot projects, "...The Superintendent of Insurance shall adopt rules to enable employers and employees to enter into agreements to provide the employees with workers' compensation medical payments benefits through comprehensive health insurance that covers workplace injury and illness."

- * We also believe the self-insurance and group self-insurance segment of Maine's workers compensation insurance market will continue to grow--and that self-insurance brings with it healthy, hands-on management of loss control and an aggressive focus on safety. Self-insuring also promotes quicker return to work by injured workers by resolving issues and disputes more efficiently.

We believe that the Maine Legislature's new law will provide significant "system" improvements, help prevent pain and disability, and lower some costs immediately while providing significant savings in the long run. Here are some of the new provisions:

WORKPLACE SAFETY INCENTIVES

Allows employers to receive 5-15% credit toward their insurance premiums for qualifying safety programs. Requires premiums to cover workplace health and safety consultation services to be provided by insurers or others. Requires mandatory safety plans for employers with the worst records.

OCCUPATIONAL HEALTH AND MEDICAL ISSUES

Provides \$120,000 for occupational health and safety training in the Maine Technical College System and allocates \$100,000 to develop occupational health and safety professional education for health care providers. Health care providers must complete occupational health training by late 1995. Requires use of generic drugs when available as one health cost containment measure. Establishes a State medical coordinator position to ensure the delivery of appropriate medical and occupational health services--to implement the independent medical examiner, case management and medical utilization review systems--and to establish treatment protocols.

RETURN TO WORK

Red-flags those workers just injured who may require vocational rehabilitation. Encourages in-house employment rehabilitation services. Extends the obligation of employers with more than 300 employees to reinstate an injured worker for up to 3 years. Employers can form light-duty work pools for recuperating workers. Prohibits selling blacklists of workers' compensation recipients. Provides for an automatic 15-day trial work period. Protects employer's premium if worker's prior injury is aggravated.

IMPROVED PROCEDURES

Limits attorney's fees on lump sum settlements. Expands automatic discontinuance with protections. Requires Workers' Compensation Commission to maintain a toll-free 800 line for information, to notify the employer when Commission proceedings are scheduled, and to notify employers of their responsibilities when the employee returns to work. Removes barriers to enable quicker and easier access to needed information and decision making.

INSURANCE ISSUES

Requires insurance policies to disclose to the employer the base rate, the employer's experience modification factors, and amount of premium spent on different types of costs. Limits insurance agents' fees for renewals in the "residual" market. Weights the most recent years more heavily for the three years used by insurers in calculating the employer's experience modification factor. Establishes the Maine Employers' Mutual Insurance Company to become operational upon State appropriation and continued lack of insurers' participation in the voluntary market.

Provides for medical expense deductibles in workers' compensation insurance, so that the employer may pay the first \$250 or \$500 of medical expenses and larger employers must pay the first \$500. Allows workers' compensation health benefit pilot projects where medical payments for work related injuries and illnesses could be paid through comprehensive health insurance instead of workers' compensation insurance policies.

We remain eager to receive and willing to listen to proposals for further improvements.

Sincerely,

Senator Judy Kany, Senate Chair
Banking and Insurance Committee

Senator Donald E. Esty, Jr., Senate Chair
Labor Committee

Rep. Elizabeth Mitchell, House Chair
Banking & Insurance Committee

JCK/dlw

**PROPOSALS FOR REFORM OF THE WORKERS' COMPENSATION INSURANCE
MARKET, possible amendments to carryover bill, LD 2442
Senator Judy Kany and Representative Elizabeth Mitchell**

Deregulate rates in the workers' compensation voluntary insurance market

Create an Employers' Mutual Fund to provide mutual workers' compensation benefits coverage for Maine employers

Eliminate the current residual market and initially take in all of the employers in that market

Require safety plans and committees for each employer and require safety services from the Department of Labor

Employers' Mutual Fund to have its own governing body of employees and employers and to hire its own management

Create 8 industry divisions and a high risk division to provide benefits coverage:

- Manufacturing, agriculture, fisheries and forestry Services
- Retail
- Construction and mining
- Wholesale
- Transportation and public utilities
- Finance, insurance and real estate
- State and local government
- High Risk

Each division to have its own governing body of employees and employers and to hire its own management

Each division to share liabilities for deficits and to share distribution of surplus

Each division to purchase excess and aggregate reinsurance for expensive liabilities

Employers' Mutual Guarantee Fund to cover liabilities due to insolvencies and termination of business

Rates for 1993 to be set at 1992 levels, plus assessments for the Employers' Mutual Guarantee Fund and the costs of mandatory safety services

Rates for 1994 to be set at 1993 rates plus any necessary adjustments

Rates for 1995 and beyond to be set by each division

POSITION STATEMENT
OF
THE MARYLAND INSURANCE GROUP
ON
WORKERS' COMPENSATION REFORM
IN THE STATE OF
MAINE

Mitchell Radkin MD
CEO
Boston Beth Israel.
Inpatient v out-patient
cost cutting.

The Maryland Insurance Group, through Maine Bonding & Casualty Company (chartered in 1893), has actively participated in the Maine market since 1926. Our Company has 160 employees based in Maine, and over 20 employees in the Home Office service our Maine book of business. In addition, we have many independent agents residing in the State.

We have remained in the Maine workers' compensation marketplace despite great adversity over the past 10 years while most other carriers have withdrawn. As a result, we are one of three remaining carriers active in the workers' compensation market and have an overall market share of almost 20%.

There are a number of major problems that continue to trouble the workers' compensation system in Maine. We believe that these problems must be resolved in 1992 if the private insurance market is to survive in the State. A significant rate increase is needed to achieve rate adequacy. Regrettably, the Legislature, by law, recently directed the Superintendent of Insurance to delay consideration of the pending 32% rate increase until November of this year with an effective date of August 1, 1992. This delay will lead to further losses in both the voluntary and residual markets and create greater uncertainty as to future prospects for rate adequacy. In addition, our Company faces residual market deficits for 1989, 1990, and 1991 in the millions of dollars.

The State has not allowed us to collect enough premium to pay for these losses which will have to be paid out of surplus earned from other sources. We are also facing a baseless anti-trust suit instigated by a group of out-of-state attorneys and, even if the suit is dismissed as being without merit, we will have incurred over a million dollars in defense costs. Finally, a lawsuit has been filed against the Insurance Department's 1991 residual market regulation which creates stability and predictability in residual market assessments for 1992 and into the future. If this regulation is revised or overturned, our exposure to assessments will increase considerably.

Given this ominous background, we believe there are actions that must be taken by the Maine Legislature to resolve these problems and to recreate a healthy competitive workers' compensation market in the State. Our recommendations to accomplish this are as follows:

I. ENACT COMPETITIVE RATING LEGISLATION

The insurance industry is not a monopoly similar to the power company and does not require monopoly regulation. There are at least three competing carriers and more carriers are likely to return to the market over time if they are allowed to establish

prices based upon competitive forces. The Maryland Insurance Group does not believe that the Maine workers' compensation marketplace can be effectively served under the current prior approval system.

II. THE WORKERS' COMPENSATION RESIDUAL MARKET MUST BE MADE SELF-SUPPORTING

Actions by the State Legislature and the Department of Insurance over the past several years have resulted in substantially inadequate rates in both the voluntary and residual markets. As a result, the workers' compensation pool has developed hundreds of millions of dollars in losses, a substantial part of which must be paid for by our Company. It is unfair and bad economic policy to require the seller of a product to subsidize its costs to its buyers. For The Maryland Insurance Group to effectively continue to serve the Maine workers' compensation market, these subsidies must end and the residual market be made self-supporting. This can be accomplished in one of two ways:

- a. If the workers' compensation pool is to continue, it should by law be made self-supporting on a year-to-year basis. An annual reconciliation system, through a surcharge on employers, should be instituted to accomplish this purpose. The surcharge must not be subject to prior approval and any overcharges or undercharges must be adjusted annually, or;
- b. The establishment of a competitive state fund would serve as both a competitive insurer and a market of last resort. This fund must be self-supporting and operate on a level playing field with insurers in the private market. The privately-run workers' compensation pool would be abolished at the time the competitive state fund begins operations and all pool business would be moved into the fund at that time. Prior to the start-up of the state fund, insurers should be given certain incentives to encourage them to take business out of the pool and write it in the voluntary market.

III. ENACT COST CONTAINMENT REFORMS

The cost of Maine workers' compensation is relatively high with regard to the cost of similar systems in other states and with regard to the ability of the Maine economy to afford such an expensive system. Additional reforms should be enacted to bring the cost of the Maine system in line with that of other states and to make it more affordable.

While the adoption of a competitive rating system and the creation of a self-supporting residual market will help improve market availability, the system will continue to have problems unless underlying costs are contained. In order to reduce the costs of the system, reforms should be adopted in the followings areas:

- a. Eliminate both the opportunity and incentive to litigate claims by simplifying the statute, use a predominant cause definition, cap permanent partial benefits

duration at 250-300 weeks, pay legal fees out of awards, limit lump sums, and tighten use of AMA guides in PPD cases.

- b. Restructure the current workers' compensation commission to reduce litigation and improve caseload management.
- c. Enact medical cost containment provisions by including an effective fee schedule and encouraging managed care arrangements.

IV. MICHIGAN SYSTEM - COMMENTS

We have met with the Maine Workers' Compensation Group and have learned of their support for the adoption of the Michigan workers' compensation law in the State of Maine. While we are very supportive of this cooperative effort between labor and management groups to bring about needed reform, we offer the following cautions:

1. Before any final judgment is made regarding the adoption of the Michigan law in Maine, the determination must be made as to the approximate cost of that system as it would operate in Maine. It is possible that the system could cost as much and maybe more than the present system.
2. As in any workers' compensation system, there is a great deal of settled case law in Maine interpreting the workers' compensation statute. The adoption of the Michigan system in Maine without adoption of interpretive Michigan case law, could result in years of litigation to establish new case law. Further, there is no guarantee that the Maine courts would interpret the law as it has been interpreted in Michigan.
3. The Michigan plan includes a competitive state fund and a privately-run workers' compensation pool. This system would not be acceptable to The Maryland Insurance Group in the State of Maine. We believe there should be only one residual market mechanism and that it should be fully self-supporting. Our preference at this time in Maine is the adoption of a competitive state fund that will serve as the market of last resort.

* * *

For further information, please contact Grover E. Czech, Vice President, Government and Industry Affairs at 410-338-9681.

June 2, 1992



115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2442

S.P. 965

In Senate, March 24, 1992

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.
Reference to the Committee on Banking and Insurance suggested and ordered printed.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator KANY of Kennebec
Cosponsored by Representative MITCHELL of Vassalboro.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-TWO

**An Act to Deregulate Workers' Compensation Insurance Voluntary
Market Rates and to Establish the Workers' Compensation Employers'
Mutual Fund.**

(AFTER DEADLINE)

Be it enacted by the People of the State of Maine as follows:

2 **Sec. 1. 24-A MRSA §2309**, as amended by PL 1989, c. 797, §§12,
4 37 and 38, is repealed.

6 **Sec. 2. 24-A MRSA §2310**, as amended by PL 1989, c. 797, §§13,
8 37 and 38, is repealed.

10 **Sec. 3. 24-A MRSA §2311**, as amended by PL 1989, c. 797, §§14,
12 37 and 38, is repealed.

14 **Sec. 4. 24-A MRSA §2312**, as amended by PL 1989, c. 797, §§15,
16 37 and 38, is repealed.

18 **Sec. 5. 24-A MRSA §§2313 and 2314**, as amended by PL 1989, c.
20 797, §§16, 37 and 38, are repealed.

22 **Sec. 6. 24-A MRSA §2362**, as enacted by PL 1987, c. 559, Pt.
24 A, §4, is amended to read:

26 **§2362. Workers' compensation rates**

28 Workers' compensation rates and classifications shall--be
30 take effect and rates are approved, modified, or disapproved by
32 the superintendent subject to this chapter. Rates that take
34 effect without order of the superintendent and rates that are
36 determined by the superintendent are maximum rates. Premium
38 Lower premium rates ~~less-than-these-approved~~ may be used if filed
40 with the superintendent within 5 days after commencing use. If
42 the superintendent has reason to believe that the filing produces
44 rates which that are inadequate or unfairly discriminatory, he
46 the superintendent may disapprove them under subchapter I and
48 chapter 23 and ~~chapter 25, subchapter I.~~

50 **Sec. 7. 24-A MRSA §2363**, as amended by PL 1991, c. 615, Pt.
A, §§5 to 9, is further amended to read:

§2363. Workers' compensation insurance policies and rates

The following provisions apply to workers' compensation insurance policies and rates.

1. Policies. Every insurance company or insurer issuing workers' compensation insurance policies covering the payment of compensation and benefits provided for in this subchapter must use only policy forms approved pursuant to section 2412.

2. Determination of rates. Every insurer issuing workers' compensation insurance policies shall file with the superintendent its classification of risks and maximum premium

2 rates, which may not take effect until the superintendent has
3 approved them. The superintendent shall apply the procedures and
4 standards of this section in investigating, reviewing and
5 determining just and reasonable rates. The superintendent may:

6 A. ~~Require the filing of specific rates for workers'~~
7 ~~compensation insurance, including classification of risks,~~
8 ~~experience or any other rating information from insurance~~
9 ~~carriers authorized to transact insurance in this State;~~

10 B. Make or cause to be made investigations as the
11 superintendent considers necessary to determine that the
12 filed rates to be promulgated are just and reasonable; and

13 C. At any time, after public hearing, withdraw the
14 superintendent's approval of a previously approved rate
15 filing.

16
17
18 **3. Notice of filing.** At least 20 days prior to any filing
19 for rates under this section, a person filing shall notify the
20 superintendent in writing of the intention to file and shall
21 disclose the approximate amount of a requested increase or
22 decrease and a description of major rating rule changes to be
23 proposed. ~~Within 10 days of receipt, the superintendent shall~~
24 ~~notify the public by publication in a newspaper of general~~
25 ~~circulation and notify the Public Advocate that a rate filing is~~
26 ~~to be made. A filing and any supporting information are public~~
27 ~~information.~~ Restrictions on ex parte communications, as
28 provided for in Title 5, section 9055, shall be are applicable on
29 the date the superintendent receives the notice of intention to
30 file.

31
32 **4. Contents of filing.** A rate filing shall must include:

33 A. Maine premium, loss and loss adjustment experience.
34 Maine premium, loss and loss adjustment experience must show:

35
36
37 (1) Data from ~~all carriers writing workers'~~
38 ~~compensation~~ the carrier on insurance in this State.
39 ~~If a company is excluded from the rate level, trend,~~
40 ~~loss development, expense determination, classification~~
41 ~~differentials or investment income calculations, that~~
42 ~~company and its market share must be identified and an~~
43 ~~explanation provided for its exclusion;~~

44
45 (2) Premiums calculated at current rate level.
46 Whenever on-level factors are used, their derivation
47 must be shown. The derivation of the percentages of
48 total premium written and earned at various rate levels
49 must also be shown;
50

2 (3) The amount of premium collected from the expense
4 constant. This premium must be provided in dollars and
6 as a percentage of the standard earned premium and as a
8 percentage of net earned premium. If the percentage of
premium collected in this manner is expected to change,
the extent of the change must be estimated and the
details of this estimation provided;

10 (4) The amount of premium collected by the minimum
12 premium. This premium must be provided in dollars and
14 as a percentage of standard earned premium and as a
16 percentage of earned premium. If the percentage of
premium collected in this manner is expected to change,
the extent of the change must be estimated and the
details of this estimation provided;

18 (5) Earned premiums, which must include premium
20 collected from the specific disease loading. If
22 disease loadings have been excluded, a justification
must be provided;

24 ~~(6) The latest earned premiums and market shares for
the 10 largest workers' compensation insurers, by
group, in this State;~~

28 ~~(7) The following information on carriers deviating
from bureau workers' compensation rates for each of the
last 3 years;~~

30 ~~(a) A list of all deviating carriers;~~

32 ~~(b) The total standard premium written at
34 deviated rates;~~

36 ~~(c) The percentage of the entire statewide
38 standard premium written at deviated rates;~~

40 ~~(d) The total amount of deviations in dollars;~~

42 ~~(e) The average percentage deviation for
deviating companies; and~~

44 ~~(f) The average percentage deviation for all
46 carriers;~~

48 ~~(8) The following information on carriers' workers'
compensation dividend practices for each of the last 3
50 years;~~

2 (a) ~~--A list of all carriers issuing dividends;~~

4 (b) ~~--The total amount of dividends in dollars;~~

6 (c) ~~---The average percentage dividend issued by
carriers issuing dividends; and~~

8 (d) ~~--The average percentage dividend issued by all
carriers;~~

10
12 (9) (6) All policy year and accident year incurred
14 loss data used in the filing, provided in the aggregate
and also separated into paid losses, case-incurred and
incurred but not reported losses; and

16 (10) (7) The related incurred losses for all incurred
18 loss adjustment expense data contained in the filing;

20 B. Credibility factor development and application. All
22 information relating related to the selection of the
credibility factors contained in the filing shall must be
provided, ~~which shall~~ and must include:

24 (1) A complete description of the methodology used to
26 derive the factors;

28 (2) A description of the criteria used to select the
methodology for inclusion in the filing;

30 (3) Details on the application of the methodology to
32 this filing; and

34 (4) A listing of alternative methodologies used in
other states in filings made during the last 2 years;

36 C. Loss development factor development and application.

38 (1) The following loss data at successive evaluation
40 dates shall must be provided:

42 (a) At least the latest available 12 years of
44 data ~~for matching companies~~ for all pairs of
successive evaluation dates, except that for a
rate filing made in 1989 and 1990 the data periods
shall be are 10 and 11 years, respectively;

46 (b) Data on both a policy year and an accident
48 year basis;

- 2 (c) Data separated into indemnity and medical
losses as well as combined*data;
- 4 (d) Data separated into paid, case-incurred,
6 including incurred but not reported losses and
case-incurred excluding incurred but not reported
8 portions as well as total losses;
- 10 (e) Reported indemnity, medical, and total claims
for all years and evaluation dates for which loss
12 information is provided;
- 14 (f) The latest available 5-unit statistical
policy years of loss data ~~for matching companies~~
16 for all pairs of successive evaluation dates;
- 18 (g) Case-incurred losses, number of claims,
standard earned premium and earned exposures;
- 20 (h) Losses separated into indemnity and medical
losses;
- 22 (i) Compensable claim experience separated into
24 deaths, permanent totals, major permanent
partials, minor permanent partials and temporary
26 totals;
- 28 (j) Current on-level benefit factors for each
injury type split between indemnity and medical;
30 and
- 32 (k) For each policy year, the actual average wage
and the average wage after the application of any
34 payroll limitation.

36 (2) All information ~~relating~~ related to the selection
of the loss development factors contained in the filing
38 shall must be provided. This information shall must
consist of:

- 40 (a) A complete description of the methodology
42 used to arrive at the selected factors;
- 44 (b) A description of alternative methodologies
used or considered for use by the ~~rating-bureau~~
46 carrier in other states during the last 2 years;
and
- 48 (c) Specific details regarding the application of
the criteria used in the selection of a
50 methodology for this filing;

2 D. Trending factor development and application, which shall
3 must include:

4 (1) The following trend information:

6 (a) Indemnity and medical trend factor
8 calculations based upon both policy year data and
9 accident year data from this State;

10 (b) Indemnity and medical trend factor
12 calculations based upon countrywide policy year
13 data;

14 (c) For the medical trend, separate compilations
16 for fee schedule and nonfee schedule states on
17 both a policy year and an accident year basis; and

18 (d) Any econometric projections done of claim
20 severity, claim frequency and average weekly wages
21 based on models used by or in the possession of
22 the rating bureau; and

24 (2) All information ~~relating~~ related to the selection
25 of the trend factors contained in the filings. This
26 information shall must include:

28 (a) A complete description of the methodology
29 used to derive the selected factors;

30 (b) A description of alternative methodologies
32 used or considered for use by the ~~rating-bureau~~
33 carrier in other states; and

34 (c) Specific details regarding the application of
36 the criteria used in the selection of a
37 methodology of this filing;

38 E. Changes in premium base and exposures. The following
40 information shall must be provided with any filing proposing
41 a change in premium discounts, expense constants or minimum
42 premiums:

44 (1) Information on the distribution by size of policy
45 shall must be provided so that the effects of premium
46 discount, the expense constant and the minimum premium
47 rule can be calculated. This information shall must
48 include the number of policies and the dollar amount of
49 premium in this State for the latest available 3 years
50 separately for stock and nonstock companies, and

combined using the following premium size
distribution: \$0-\$199; \$200-\$299; \$300-\$499;
\$500-\$999; \$1,000-\$2,999; \$3,000-\$4,999; \$5,000-\$9,999;
\$10,000-\$24,999; \$25,000-\$49,999; \$50,000-\$99,999;
\$100,000-\$249,999; and over \$249,999. Information
shall must be provided for the premium bands affected
by the proposed changes; and

(2) Any countrywide distributions of number of
policies or premium by layer that is used in the filing
shall must be described. Details shall must be
provided concerning how these distributions have been
used in the rate filing, the sources and dates of the
information used to produce the distributions and a
description of any adjustments that have been made to
the distributions;

F. Limiting factor development and application, which shall
must include the following information:

(1) Limitations on losses included in the statistical
data used in the filing;

(2) Limitations on the extent of the rate level change;

(3) Limitations on the extent of classification rate
changes; and

(4) Any other limitations applied;

G. Overhead expenses. The part of the filing pertaining to
overhead expenses shall must include the following:

(1) The expense provisions used in the filing and an
explanation of the derivation of the expense
provisions, which shall must include the following
information:

(a) A complete description of the methodology
used to derive the selected provisions;

(b) A description of alternative methodologies
used or considered for use by the rating-bureau
carrier in other states; and

(c) Specific details regarding the application of
the criteria used in the selection of a
methodology for this filing;

2 (2) Support for all the expense, tax and profit
3 provisions for the proposed rates, under both the
4 current and proposed expense provisions, ~~----An~~
5 ~~explanation--shall--be--provided--concerning--why--these~~
6 ~~provisions--are--appropriate--for--stock--and--nonstock~~
7 ~~insurance-companies;~~

8 (3) Expense experience allocable to the coverage of
9 risks in this State, including acquisition and field
10 supervision expenses; taxes, licenses and fees; general
11 expenses; and loss adjustment expenses. Safety
12 engineering expense and loss control services expense
13 shall must be stated separately under general expense;

14 (4) A description of any adjustments of countrywide
15 data to reflect conditions within this State and the
16 details of the underlying calculations. If the
17 proposed expense provisions differ from those indicated
18 by the data, an explanation shall must be provided;

19 (5) A description of how proposed allowances for
20 expenses are reviewed each year by ~~committees of the~~
21 ~~rating-bureau~~ carrier;

22 (6) The dollar amount, if any, of taxes and
23 assessments included in the collected loss data;

24 (7) The details of the derivations of the tax
25 multiplier;

26 (8) Expense data required by this subsection, ~~reported~~
27 ~~in-the-aggregate-for-all-insurers. The expense data~~
28 ~~shall-be-reported-separately-for-each-of-the-10-largest~~
29 ~~insurers,~~ based on written premium in the prior
30 calendar year;

31 (9) ~~For each of the 10 largest writers of workers'~~
32 ~~compensation insurance in this State, a~~ A statement
33 regarding any expense reduction activities undertaken
34 in the last 3 years; and

35 (10) The changes and improvements instituted in loss
36 control and employee safety engineering for the 10
37 largest ~~carriers,~~ carrier based on written premium in
38 the prior calendar year.

39 If the superintendent finds that state expense data is not
40 fully credible, the superintendent may consider expense data
41 from outside this State;

2 H. Law amendment valuation. For any law changes becoming
effective during that period in which rates will be in
4 effect, or in effect but not evaluated in prior rate
filings, the following information shall must be provided:

6 (1) A complete description of the methodology used to
evaluate the law change;

8 (2) Identification of assumptions made and supporting
10 information for those assumptions, both as to
information before and after the law change; and

12 (3) Identification of the source and timeliness of
14 data, including identification of data from experience
within this State and data from countrywide or other
16 states;

18 I. A showing of the overall statewide rate change as well
as the amount of the change attributable to each of the
20 following: Loss experience; a modification of the trend
factor; a change in expense provisions; law amendments; a
22 change in the tax provision; a change in the assessment
provision; and any other factors. The rate changes for each
24 industry group and each classification shall must also be
shown;

26 J. The proposed rates for each classification;

28 K. Investment earnings. The following information related
30 to anticipated investment income shall must be provided:

32 (1) Information on the amount of investment income
earned on loss, loss expense and unearned premium
34 reserves in relation to both net and standard earned
premium for workers' compensation in this State
36 calculated for the latest 5 years, and the total amount
of investment income expected to be earned on loss,
38 loss expense and unearned premium reserves in relation
to both net and standard premium reserves for workers'
40 compensation policies sold in this State during the
years in which the proposed rates will be in effect.
42 The derivation of these calculations shall must be
provided in detail, including the amount of the
44 composite reserves of each type at the beginning and
end of the specified years.

46 (2) The estimated pay-out pattern of compensable
48 injuries and illnesses in this State, adjusted to
current law; and

50

2 (3) ~~Composite information from the annual statement~~
3 ~~for all workers' compensation insurers in this State.~~
4 ~~The following information from the latest 2 annual~~
5 ~~statements shall be provided in the same format and~~
6 ~~detail as the exhibits in individual company statements.~~

8 (a) ~~Page 2, Assets, line one through the line~~
9 ~~identified "Totals,";~~

10 (b) ~~Page 3, Liabilities, Surplus and Other Funds,~~
11 ~~line one through the line identified "Totals,";~~

12 (c) ~~Page 4, Underwriting and Investment Exhibit,~~
13 ~~line one through the line identified as "Surplus~~
14 ~~as regards policyholders, December 31 current~~
15 ~~year,";~~

16 (d) ~~Exhibit one, Analysis of Assets, line one~~
17 ~~through the line identified "Totals,"; and~~

18 (e) ~~Schedule P sections dealing with workers'~~
19 ~~compensation;~~

20
21
22
23
24 (3) Loss cost data may be filed by an advisory
25 organization if the data presented pertains to workers'
26 compensation insurance experience in this State and
27 does not include the experience in other jurisdictions
28 unless the superintendent finds that state loss cost
29 data is not fully credible;

30
31
32 L. An identification of all statistical plans used or
33 consulted in preparing this filing. A description of the
34 data compiled by each plan shall must also be provided;

35
36 M. The resulting rates of return on equity capital
37 resulting from the selected underwriting profit and
38 contingency factor. The derivation of all factors used in
39 producing the calculations and justification that the rate
40 of return on equity is just and reasonable shall must be
41 provided;

42 N. The level of capital and surplus needed. The following
43 information relating to the level of capital and surplus
44 must be provided;

45 (1) Aggregate premium to surplus ratios and reserve to
46 surplus ratios for the latest 5 calendar years for all
47 ~~carriers writing workers' compensation insurance in~~
48 ~~this State~~ the carrier; and
49

50

2 (2) Estimates of comparable ratios for the years
during which the rates will be in effect; and

4 O. The following miscellaneous information:

6 (1) For the following items, an explanation of the
8 purpose for and a detailed description of the
derivation shall must be included:

10 (a) Expected loss rate;

12 (b) D-ratio;

14 (c) Excess loss factors;

16 (d) Excess loss adjustment amounts; and

18 (e) Table of weighting and ballast values;

20 (2) The following information ~~relating~~ related to the
22 derivation of the profit and contingency loading
contained in the filing shall must be provided:

24 (a) A complete description of the methodology
used to arrive at the selected loading;

26 (b) A description of alternative methodologies
28 used or considered for use by the ~~rating-bureau~~
carrier in other states; and

30 (c) Specific details regarding the application of
32 the criteria used in the selection of a
methodology for this filing; and

34 (3) Information shall must also be provided on all
36 filings by the ~~rating-bureau~~ carrier that have been
submitted with an underwriting profit and contingency
38 loading other than the provision used in this filing.
The following information shall must be listed for all
40 such filings in the last 3 years: The State state; the
underwriting profit and contingency loading submitted;
42 the loading approved; and the effective date of the
rate; and

44 P. Rate filings may include retrospective rating plans.

46 Filing requirements under this subsection may be waived by the
48 superintendent in writing if a carrier makes a good faith effort
50 to produce the information and the information is found by the
superintendent to be unavailable.

2 For a filing made on or after July 1st in any year, the data and
4 information required in paragraphs A, C, D, G, K and N shall must
6 be for the period ending with the immediately preceding calendar
8 year. For a filing made prior to July 1st, the data and
information required in paragraphs A, C, D, G, K and N shall must
be for the period ending with the second 2nd preceding calendar
year.

10 ~~5-A. Voluntary and residual market rates. If rates and~~
12 ~~rating factors for the voluntary market and the residual market~~
are submitted concurrently, the following information shall be
14 included in the filing:

16 A. ~~An explanation of the derivation of the rate~~
18 ~~differential, or differentials, among the voluntary market~~
rates, the safety pool rates and the accident prevention
account rates, and

20 B. ~~For a filing made on or after July 1st in any year, for~~
22 ~~the 3 calendar years immediately preceding the date of~~
filing, the actual written premium, earned premium, incurred
24 losses, incurred loss adjustment expenses, paid losses and
paid loss adjustment expenses. For a filing made prior to
26 July 1st, the premium loss and expense information required
by this paragraph shall be for the 2nd, 3rd and 4th
preceding calendar years.

28 5-B. Rates. All rates must be filed and any determination
30 of whether the rate satisfies the requirements of this Title must
be made by the superintendent on an individual basis.

32 **6. Additional information.** The superintendent may require,
34 at any time, any additional information the superintendent deems
36 necessary and may reasonably extend the time periods established
in subsection 11 to allow time to provide that information.

38 A. Within 30 days of receipt of a filing, the
40 superintendent shall determine if the filing is complete.

42 (1) If the filing is incomplete, the superintendent
44 shall notify the applicant and all parties in writing
of those deficiencies.

46 (2) An applicant shall complete or amend the filing
48 within 30 days of that written notice. Upon motion by
the applicant made within the 30-day period and upon a
50 showing of good cause, the superintendent may extend
the 30-day period as the superintendent deems
appropriate.

2 (3) An action or inaction by the superintendent under
4 this paragraph does not constitute a substantive
6 finding that the information in the filing is
8 sufficient to establish that any action or relief
should be granted or that any facts have been proven or
limit the superintendent's authority to request further
information or data.

10 B. If the applicant fails to furnish the information within
12 the time prescribed, the superintendent may issue an order
dismissing the filing.

14 C. For all purposes, the date of completing the filing
16 shall-be is deemed the date on which the last document that
made the filing complete was received by the superintendent,
18 except that the superintendent may treat the day that the
incomplete filing was filed as the filing date if the
20 incompleteness is found to be immaterial or not to have
delayed, impeded or interfered with the ability of the
22 superintendent, bureau or any party to respond to,
investigate or process the filing.

24 6-A. Effective date. Every filing must state the effective
26 date of the filing and must be made no less than 60 days prior to
28 the stated effective date. A filing takes effect on the stated
30 effective date unless an order to the contrary or an order
requiring the filing of more information and extending the time
period for consideration of the filing is entered by the
superintendent.

32 6-B. Standard for review. A filing must provide for rates
34 that are just and reasonable and not excessive, inadequate or
36 unfairly discriminatory and that are based on a just and
38 reasonable profit for the insurer. If the superintendent has
40 reason to believe that a filing does not meet the standards of
this chapter or violates the provisions of this Title, the
superintendent shall issue, after a hearing, an order stating in
what respects the filing does not meet the applicable
requirements and stating that the filing is not effective.

42 7. Standard for approval. This subsection applies to
44 determination of just and reasonable rates for a filing.

46 A. The superintendent shall establish rates, based on the
48 filing and sworn testimony, which that are, in addition to
any other requirements:

50 (1) Just and reasonable and not excessive, inadequate
or unfairly discriminatory; and

2 (2) Based only on a just and reasonable profit.

4 B. In establishing just and reasonable rates, the
6 superintendent shall consider:

8 (1) When applicable, the reasonableness of any return
10 on capital and surplus allocable to the coverage of
12 risks in this State;

14 (2) The reasonableness of the amounts of capital and
16 surplus allocable to the coverage of risks in this
18 State;

20 (3) The reported investment income earned or realized
22 from funds generated from business in this State;

24 (4) The reported loss reserves, including the methods
26 and the interest rates used in determining the present
28 value for reported reserves and the use of those
30 reserves in the determination of the proposed rates;

32 (5) The reported annual losses and loss adjustment
34 expenses;

36 (6) The measures taken to contain costs, including
38 loss control, loss adjustment and employee safety
40 engineering programs;

42 (7) The relationship of the aggregate amount of
44 operating expenses reported by all carriers to the
46 annual operating expenses reported in the filing and
48 the annual insurance expense exhibits filed by each
50 carrier with the superintendent;

(8) The impact of operating and management efficiency
of the carriers on expense levels and the effect of
variations in expense levels on rates; and

(9) Any premium surcharges or credits ordered by the
superintendent pursuant to section 2367.

C. The justness and reasonableness of rates shall must be
determined for the period in which the rates are in effect.
Deficits in the residual market in any preceding year may
not be included in the determination of rates.

D. The filer shall have the burden of proving that the
rates meet the requirements of this chapter and chapter 23.

2 E. The superintendent may not approve an increase or
4 decrease in rates unless he the superintendent finds that
6 the information supplied in the filing and sworn testimony
8 is accurate and sufficient to meet the requirements of this
10 section.

12 F. For the introduction of a new rate for a new
14 classification or the adjustment of a single rate for an
16 existing classification, the requirements of paragraph A,
18 subparagraph (1); subsection 2; subsection 4, paragraphs B
20 to E; and subsections 8, 10, 13 and 14 shall apply. The
22 superintendent shall establish the new rate at a level which
24 that is not unfairly discriminatory in relation to the
26 currently approved rates for other classifications.

28 ~~7-A. Fee for servicing residual market. In every rate
filing in which a rating bureau requests a rate adjustment, the
superintendent shall take evidence on the issue of whether the
fee for servicing the residual market is reasonable. Concurrent
with the decision on the rate adjustment, the superintendent
shall issue a decision on whether the fee is reasonable, taking
into account the rate adjustment approved. If the superintendent
determines that the fee is not reasonable, the superintendent
shall order an adjustment to the fee, as necessary, to ensure
that the fee is reasonable. The superintendent shall adopt rules
establishing standards for the performance of adjustment services
and requiring that servicing fees for individual insurane
carriers be separately reviewed.~~

30 8. Public record. A rate filing shall ~~be~~ is a public
32 record and shall must be available for public review and
inspection.

34 9. Public Advocate participation. The Public Advocate
36 shall participate as follows.

38 A. The Public Advocate, as appointed under Title 35-A,
40 section 1701, shall ~~be~~ is a party to the proceeding
42 resulting from each rate filing made under this section and
44 may participate if the Public Advocate judges it necessary.
A copy of the filing shall must be served on the Public
Advocate at the same time as it is filed with the
superintendent.

46 B. A party filing for a rate change under this section
48 shall pay to the superintendent at the time of filing a
50 filing fee of \$50,000 \$5,000, that which the superintendent
shall immediately credit to the Public Advocate. The fee
must be segregated and expended for the purpose of employing
outside consultants and of paying other expenses to fulfill

2 the requirements of this subsection. Any portion of the fee
not so expended must be returned to the filer. In addition,
4 the party filing for a rate change shall pay the
superintendent at the time of filing an additional fee of
6 ~~\$15,000~~ \$1,500 to cover the salaries of Public Advocate
staff for the purpose and period of the staff involvement in
8 the rate proceeding. The superintendent shall transfer this
fee, and any other fees received for staff salaries, to the
10 Public Advocate Regulatory Fund established pursuant to
Title 35-A, section 116, subsection 8.

12 **10. Information for parties and intervenors.** A party or
intervenor may make written application to the superintendent for
14 an order that a filer produce information relevant to whether the
filing meets the requirements of this Title, except for
16 information ~~relating~~ related to a particular claim or information
which that is unduly burdensome or repetitious. If the party
18 filing fails to furnish the information within the time
prescribed by the superintendent, the party or intervenor making
20 the request may make written application to the superintendent
for an order dismissing the filing. If, after a hearing, the
22 superintendent determines that the failure to furnish the
information was without good cause, he the superintendent shall
24 issue an order for dismissal of the filing.

26 **11. Public hearing.** The superintendent ~~shall~~ may hold a
public hearing as provided in sections 229 to 235 on each
28 filing. The public hearing ~~shall~~ must be conducted no sooner
than 30 days and no later than 60 days ~~of~~ from the date the rate
30 filing is deemed complete by the superintendent, unless the
superintendent extends these limits under subsection 6. The If
32 the superintendent establishes the rates pursuant to section
2362, the superintendent shall establish--just--and--reasonable
34 issue the rates and state-his the findings in a written order
issued within 90 days from the date the filing is completed,
36 unless he the superintendent extends this limit under subsection
6. If the superintendent denies or dismisses a filing, any
38 further filing ~~shall-be~~ is deemed to be a new filing, subject to
this public hearing requirement.

40 **12. Subsequent filing.** A person may not file a rate filing
42 within 180 days of receiving a rate increase or decrease. If a
filing has been disapproved by the superintendent, the
44 requirements of this subsection shall may not operate to delay a
new filing and the data required by subsection 4, paragraph A,
46 shall is only be required for each of the 3 most recent calendar
years for which data are available.

48 **13. Procedure; rules.** Subject to the applicable
50 requirements of the Maine Administrative Procedure Act, Title-5,

2 ~~chapter--375~~, the superintendent may adopt rules establishing
4 procedures for the administration of this section, including,
6 procedures governing submission of petitions for intervenor
status, prefiling of testimony and exhibits, information
requests, subpoenas, prehearing conferences and conduct of
hearings.

8 **14. Costs.** For the purpose of determining whether a filing
10 meets the requirements of this section, the superintendent may
12 employ outside consultants. The organization or insurer making
14 the filing shall--be is responsible for the reasonable costs
related to the review of workers' compensation rate filings,
including conduct of the hearing.

16 **Sec. 8. 24-A MRSA §2366, sub-§12** is enacted to read:

18 12. Transition period. Workers' compensation and
employers' liability insurance may not be issued through the
workers' compensation insurance residual market on or after
20 October 1, 1992.

22 **Sec. 9. 24-A MRSA c. 77** is enacted to read:

24 **CHAPTER 77**

26 **WORKERS' COMPENSATION EMPLOYERS' MUTUAL FUND**

28 **§7101. Definitions**

30 As used in this chapter, unless the context otherwise
32 indicates, the following terms have the following meanings.

34 1. Assets. "Assets" means all net premium and investment
income and obligations owed to the workers' compensation
36 insurance residual market mechanism for policies written between
January 1, 1988 and October 1, 1993, including amounts owed from
carriers for poor servicing performance.

38 2. Board. "Board" means the Board of Directors of the
40 Workers' Compensation Employers' Mutual Fund.

42 3. Certificate holder. "Certificate holder" means an
44 employer that has purchased workers' compensation coverage
through the fund.

46 4. Fund. "Fund" means the Workers' Compensation Employers'
48 Mutual Fund created in section 7102.

50 5. Liabilities. "Liabilities" means all losses, expenses
and obligations of the workers' compensation insurance residual

2 market mechanism for policies written between January 1, 1988 and
3 October 1, 1993 and all expenses for administering the workers'
4 compensation insurance residual market mechanism, excluding
5 expenses that are the responsibility of servicing carriers paid
6 for through the servicing allowance.

7 6. **Manager.** "Manager" means the Manager of the Workers'
8 Compensation Employers' Mutual Fund.

9 7. **Superintendent.** "Superintendent" means the
10 Superintendent of Insurance.

11 8. **Workers' compensation insurance residual market**
12 **mechanism.** "Workers' compensation insurance residual market
13 mechanism" means the mechanism pursuant to section 2366.

14 **§7102. Creation; purpose; organization of fund**

15 1. **Fund created.** The Workers' Compensation Employers'
16 Mutual Fund is created as a nonprofit independent mutual fund.
17 The fund is not a state agency and may not receive funding from
18 the State.

19 2. **Purpose.** The fund is established for the purpose of
20 providing workers' compensation coverage to employers of this
21 State at the lowest possible cost and with the highest level of
22 service consistent with reasonable actuarial principles and the
23 financial integrity of the fund.

24 3. **Board.** The board consists of 7 members, 6 of whom are
25 appointed, and the manager who shall serve as chair. Four
26 members must be employers and 2 members must be employees.

27 A. The initial board must be appointed by the Governor.
28 The Governor shall initially appoint 2 members for a
29 one-year term, 2 members for a 2-year term and 2 members for
30 a 3-year term.

31 B. As the terms of the initial board members expire,
32 members must be elected by the certificate holders each year.

33 C. Except as provided for initial appointments, each board
34 member holds office for a 4-year term or until a successor
35 is elected and qualified. A vacancy is filled for the
36 remainder of the unexpired term by election.

37 D. The board shall elect annually any officers it considers
38 necessary for the performance of its duties.

2 E. Four members constitute a quorum of the board. Business
4 may not be acted on without a quorum being present. All
6 board decisions must be made by majority vote of the board.
 The board shall set its own compensation and expenses. The
 board shall adopt bylaws and determine the time and place of
 regular meetings and the method for calling special meetings.

8 4. Fund management. The board has exclusive management and
10 control of the fund.

12 5. Powers and duties of board. The board has full power,
14 authority and jurisdiction over the fund.

16 A. The board may perform all acts necessary or convenient
18 in the exercise of any power, authority or jurisdiction over
20 the fund, either in the administration of the fund or in
22 connection with the business of the fund to be carried on by
24 the fund under this chapter in order to fulfill the purposes
 of this chapter.

26 B. The board shall discharge its duties with the care,
28 skill, prudence and diligence that a prudent director,
30 acting in a similar capacity, would use in conducting a
32 similar enterprise and purpose.

34 C. The board may appoint investment managers to oversee and
36 manage the transfer of assets into the fund in a manner that
38 will protect the value of those assets and maximize
40 investment income, and to manage, acquire or dispose of any
42 of the assets of the fund. An investment manager may be
44 designated as an investment agent.

46 (1) An investment manager is any fiduciary designated
48 by the board to manage, acquire or dispose of the
50 assets of the fund. The investment manager shall
 acknowledge in writing that it is a fiduciary under the
 fund.

(2) The board may delegate its investment powers to
 investment managers of the fund. The purchase or sale
 of any securities by an investment manager must be in
 the name selected by the board. The authority of an
 investment manager to purchase or sell any securities
 for the fund must be evidenced by written authority
 executed by the manager.

(3) The board may enter into agreements with an
 investment manager setting forth the investment powers
 and limitations of the investment manager. The
 investment manager shall keep the board currently

2 informed of the nature and amount of the investments
4 made for the fund by the investment manager. An
investment manager is subject to the instructions of
the board.

6 (4) A rating organization or advisory organization is
8 not eligible to serve as investment manager of the fund.

10 6. Manager. The fund is under the administrative control
of the manager appointed by the board under section 7105.

12 7. Personal liability excluded. The members of the board
14 and officers or employees of the fund are not liable personally,
either jointly or severally, for any debt or obligation created
16 or incurred by the fund.

18 §7103. Power to provide coverage

20 1. Coverage for workers' compensation liability. The fund
22 may provide coverage for an employer only against liability for
compensation and benefits under this Title or under the federal
24 Longshore and Harbor Workers' Compensation Act, 33 United States
Code, Section 901 (1927), as amended, and any other coverages
authorized by the board.

26 §7104. General powers

28 1. Powers. For the purpose of exercising the specific
30 powers granted in this chapter and effectuating the other
purposes of this chapter, the fund may:

32 A. Sue and be sued;

34 B. Have a seal and alter it at will;

36 C. Make, amend and repeal rules related to the conduct of
38 the business of the fund;

40 D. Enter into contracts relating to the administration of
the fund or claims against employers who have secured
42 coverage from the fund and for any other purpose consistent
with this chapter;

44 E. Rent, lease, buy, pledge, mortgage or sell property in
its own name and construct or repair buildings necessary to
46 provide space for its operations;

48 F. Declare a dividend when there is an excess of assets
over liabilities and minimum surplus requirements consistent
50 with this Title;

2 G. Pay medical expenses, rehabilitation expenses,
4 compensation due claimants of certificate holders, salaries
 and administrative and other expenses;

6 H. Hire personnel and set salaries and compensation. The
8 Civil Service Law does not apply to any of the employees of
10 the fund or to the hiring of those employees. The State
 Employees Labor Relations Act, Title 26, chapter 9-B, does
 not apply to the fund and its employees;

12 I. Issue guaranty fund certificates, surplus notes or
14 debentures payable out of surplus, borrow money and agree to
16 pay any rate of return with respect to any guaranty fund
18 certificate, surplus note, debenture or other instrument,
 calculated in any manner and on such other terms as the
 board approves; and

20 J. Perform all other functions and exercise all other
 powers of a nonprofit independent mutual fund.

22 **§7105. Manager**

24 1. Appointment; qualifications. The board shall appoint
26 the manager to be in charge of the day-to-day operations of the
28 fund. The manager must have proven successful experience as an
30 executive at the general management level. The manager is
 entitled to compensation as set by the board and serves at the
 will of the board.

32 2. Bond. Before assuming the duties of the office, the
34 manager must qualify by giving an official bond in an amount and
36 with sureties approved by the board. The manager shall file the
 bond with the Secretary of State. The premium for the bond must
 be paid from the revolving account established in section 7107.

38 3. Discharge. The manager may be discharged only for
40 cause, after notice and investigation and by a majority vote of
 the full membership of the board.

42 **§7106. Manager's power**

44 Subject to the authority of the board and this chapter, the
 manager has the powers and duties prescribed in this section.

46 1. Chair. The manager serves as chair of the board and has
48 the right to vote.

50 2. Safety inspections; loss control services. The manager
 shall have safety inspections of risks made and advisory services

2 on safety and health measures furnished to certificate holders to
4 the maximum extent possible, consistent with the financial
6 integrity of the fund. A certificate holder taking action as a
8 result of a safety inspection or advisory services does so at the
10 certificate holder's own risk. The fund, the manager and any
12 employees of the fund have no liability in connection with action
14 taken as a result of a safety inspection or advisory services.

16 3. Disbursement of funds. The manager may act for the fund
18 in collecting and disbursing money necessary to administer the
20 fund and conduct the business of the fund.

22 4. Abstract summary. The manager shall have an abstract
24 summary of any audit or survey conducted.

26 5. Reinsurance. The manager may reinsure all or part of
28 any risk and may enter into agreements of reinsurance in the same
30 way and to the same extent as an insurance carrier.

32 6. General authority. The manager may perform all acts
34 necessary in the exercise of any power, authority or jurisdiction
36 over the fund, either in the administration of the fund or in
38 connection with the business to be carried on by the fund under
40 this chapter, including the establishment of rates for coverage.

26 §7107. Funds

28 1. Revolving account. The manager shall deliver all money
30 collected or received under this chapter to a revolving account.
32 The money in the account may be used by the fund in carrying out
34 its purposes under this chapter.

36 2. Property; fund. All payments for coverage and other
38 money paid to the fund, all property and securities acquired
40 through the use of money belonging to the fund and all interest
42 and dividends earned on money belonging to the fund and deposited
44 or invested by the fund are the sole property of the fund and the
46 certificate holders who pay into the fund and are used
48 exclusively for the operation and obligations of the fund. The
50 money of the fund is not state money. The property of the fund
is not state property.

3. Funding. The fund may not receive any state
appropriation at any time.

4. Investment of fund money. The board may invest the
money in the fund in investments permitted by law. When
selecting investments, the primary goal of the board is the
financial integrity of the fund. When investments of otherwise
equal quality exist, the board shall give preference to any

2 investment that provides a direct benefit to the people of this
3 State.

4 **§7108. Application of state laws**

6 The fund is not considered a state agency or other
7 instrumentality of the State for any purpose. The fund is
8 subject to all state laws governing or applying to a nonprofit
9 independent mutual fund. The operations of the fund, to the
10 extent that they constitute self-insurance, are subject to all
11 those provisions of this Title and of Title 39 applicable to a
12 self-insurer of workers' compensation liability, including, but
13 not limited to, Title 24-A, chapter 25, subchapter II-A. The
14 superintendent has the same powers with respect to the board as
15 the superintendent has with respect to a self-insurer under this
16 Title and Title 39. The fund is subject to the same income tax
17 liability as a domestic mutual insurance company in this State
18 under Title 36, Part 8. The fund is not considered a member
19 insurer and is not eligible for participation in the Maine
20 Insurance Guaranty Association pursuant to Title 24-A, chapter
21 57, subchapter III.

22 **§7109. Reports and information**

24
25 1. Annual report. The manager shall submit an annual
26 report to the Governor and to the joint standing committee of the
27 Legislature having jurisdiction over insurance matters indicating
28 the business done by the fund during the previous year and
29 containing a statement of the resources and liabilities of the
30 fund and any other information considered appropriate by the
31 manager.

32
33 2. Statistical and actuarial data. The manager shall
34 compile and maintain statistical and actuarial data related to
35 the determination of proper rate levels for coverage, the
36 incidence of work-related injuries, costs related to those
37 injuries and any other data that the manager considers
38 desirable. The manager shall, upon request, provide this data to
39 the superintendent, the chair of the Workers' Compensation
40 Commission, the Department of Labor, the joint standing committee
41 of the Legislature having jurisdiction over insurance matters and
42 the joint standing committee of the Legislature having
43 jurisdiction over labor matters.

44
45 3. Review and report by superintendent. The
46 superintendent shall review the statistical and actuarial data
47 and annual report of the fund each year and shall report to the
48 joint standing committee of the Legislature having jurisdiction
over insurance matters and the joint standing committee of the

2 Legislature having jurisdiction over labor matters on the
3 financial stability of the fund.

4 **§7110. Funding**

6 **1. Fund becomes operational upon transfer of funds.** The
7 fund becomes operational upon the receipt of funds provided by
8 the transfer of assets from the workers' compensation insurance
9 residual market mechanism under subsection 2 or funds from the
10 Employment Rehabilitation Fund under subsection 3.

12 **2. Funding.** Transfer of funds from the workers'
13 compensation insurance residual market mechanism to the fund must
14 take place on October 1, 1992 under the following provisions.

16 **A.** Effective October 1, 1992, all assets and liabilities of
17 the workers' compensation insurance residual market
18 mechanism attributable to policies issued on or after
19 January 1, 1988 become the property of the fund.

20 **B.** The workers' compensation insurance residual market
21 mechanism may not incur expenses for administering the
22 mechanism after October 1, 1992.

24 **C.** All records and reports of the workers' compensation
25 insurance residual market mechanism losses, expenses,
26 premiums, investment income, assessments, performance
27 audits, servicing contracts and policies issued, terminated
28 and renewed must be turned over to the fund on October 1,
29 1992.

32 **3. Additional funding.** No later than September 1, 1992,
33 the Treasurer of the State shall transfer to the fund \$300,000
34 from the account of the Employment Rehabilitation Fund
35 established pursuant to Title 39, section 57-D.

36 **4. Transitional administrative funding.** If the board
37 determines that transitional administrative funding is required
38 for administrative expenses necessary to begin operation of the
39 fund prior to October 1, 1992, the board may direct the
40 prepayment of up to \$1,000,000 from the workers' compensation
41 insurance residual market mechanism. The workers' compensation
42 insurance residual market mechanism must make the prepayment as
43 directed by the board. Repayment to the workers' compensation
44 insurance residual market mechanism of principle or interest may
45 not be required.

48 **5. Servicing carrier responsibility.** The workers'
49 compensation insurance residual market mechanism shall assign to
50 the fund all servicing contracts and obligations in effect for

2 policies written between January 1, 1988 and October 1, 1992 and
4 has full responsibility for servicing all policies written during
6 that time period.

8 **§7111. Servicing of fund**

10 The servicing of all coverage within the fund is governed by
12 the following provisions.

14 1. Coverage written after October 1, 1992. The fund has
16 the responsibility for managing servicing of fund coverage
18 purchased by employers after October 1, 1992 and may do so
20 through its own staff or by contracting with servicing agents.

22 2. Standards for award. If an outside servicing contract
24 is utilized, it must be awarded on the basis of acceptable price
26 and performance, giving special consideration to loss control,
28 safety engineering and other factors affecting safety. An
30 outside servicing contract must be awarded on the basis of a
32 competitive bidding process and permit access by the fund to
34 expense, profit and claims-handling information.

36 3. Servicing fees. Servicing fees paid to outside
38 servicing contractors must be determined on a competitive,
40 individual basis and contingent upon acceptable servicing
42 performance, including performance of adjustment services and
44 accident loss ratios.

46 4. Policies written before October 1, 1992. Servicing
48 carriers for residual market policies written before
50 October 1, 1992 have full responsibility to the fund for
52 providing high-quality service on those policies. The fund may
54 monitor servicing carrier performance and may have access to
56 information on servicing carrier expenses and claims adjustment
58 performance. The fund may audit servicing performance.

60 **§7112. Operation of fund**

62 1. Participation. Beginning October 1, 1992, the fund has
64 the responsibility for managing the workers' compensation
66 insurance residual market mechanism assets and liabilities
68 attributable to policies issued by that mechanism between October
70 1, 1992 and for issuing coverage to certificate holders who
72 purchase coverage through the fund. The fund consists of the
74 Accident Prevention Account and the Safety Pool.

76 2. Accident Prevention Account; eligibility. Eligibility
78 for coverage from the Accident Prevention Account is as follows.

2 A. The Accident Prevention Account is a plan that provides
4 for the equitable apportionment among employers who are
6 entitled to, but are unable to, procure insurance through
8 ordinary methods because of a demonstrated accident
10 frequency problem, measurably adverse loss ratio over a
12 period of years or a demonstrated attitude of noncompliance
14 with safety requirements.

16 B. An employer is eligible for coverage from the Accident
18 Prevention Account if that employer:

20 (1) Has at least 2 lost-time claims over \$10,000 and a
22 loss ratio greater than 1.00 over the last 3 years for
24 which data is available; and

26 (2) Has attempted to obtain insurance in the voluntary
28 market and has been refused by at least 2 insurers that
30 write that insurance in this State.

32 3. Safety Pool; eligibility. Eligibility under the Safety
34 Pool is as follows.

36 A. The Safety Pool is a plan that provides for an
38 alternative source of coverage for employers with good
40 safety records.

42 B. An employer is eligible for the Safety Pool if that
44 employer:

46 (1) Has had no more than one lost-time claim in the
48 last 3 years for which data is available, regardless of
50 the resulting loss ratio;

52 (2) Has a loss ratio that does not exceed 1.00 or has
54 had no more than one lost-time claim over \$10,000 over
56 the last 3 years for which data is available; or

58 (3) Has been in business for less than 3 years,
60 provided that the eligibility terminates if the
62 employer's loss ratio exceeds 1.00 at the end of any
64 year.

66 C. A member of the Safety Pool who fails to meet
68 eligibility requirements under paragraph B must be ordered
70 to leave the Safety Pool after one month's prior notice
72 given in writing to the employer.

74 4. Plan of operation. The board shall adopt rules
76 establishing a plan of operation for the fund. The plan of

2 operation must contain performance standards and those additional
3 terms the board determines necessary. *

4 A. The plan must include an experience rating system and
5 merit rating plan providing that the payment for coverage of
6 each certificate holder in the account is modified either
7 prospectively or retrospectively. An experience rating
8 system may be applied only to the manual rate of the plan.
9 The sensitivity of a rating system may vary by size of the
10 risk involved.

11 B. The plan must provide for payment for coverage
12 surcharges for certificate holders in the Accident
13 Prevention Account based on their specific loss experience
14 within a specified period or other factors reasonably
15 related to their risk of loss.

16
17 (1) A payment for coverage surcharge may not be
18 applied to a risk with a threshold loss ratio is less
19 than 1.00. The threshold loss ratio is based on the
20 ratio of "L" to "P" when:

21
22 (a) "L" is the actual incurred losses of a risk
23 during the previous 3-year experience period as
24 reported, except that the largest single loss
25 during the 3-year period is limited to the amount
26 of premium charged for the year in which the loss
27 occurred; and

28
29 (b) "P" is the premium charged to a risk during
30 that 3-year period.

31
32 (2) Premium surcharges apply to a premium that is
33 experience rating or merit rating modified.

34
35 (3) Premium surcharges are based on a policyholder's
36 adverse deviation from expected incurred losses in this
37 State. The surcharge is based on the ratio of "A" to
38 "B" when:

39
40 (a) "A" is the actual incurred losses of a risk
41 during the previous 3-year experience period as
42 reported; and

43
44 (b) "B" is the expected incurred losses of a risk
45 during that period as calculated under the uniform
46 experience rating or merit rating plan multiplied
47 by the risk's current experience rating or merit
48 rating modification factor.

(4) The premium surcharge is as follows:

<u>Ratio of "A" to "B"</u>	<u>Surcharge</u>
<u>Less than 1.20</u>	<u>None</u>
<u>1.20 or greater but less than 1.30</u>	<u>5%</u>
<u>1.30 or greater but less than 1.40</u>	<u>10%</u>
<u>1.40 or greater but less than 1.50</u>	<u>15%</u>
<u>1.50 or greater</u>	<u>20%</u>

5. Rates. Rates in the Accident Prevention Account and the Safety Pool must be determined together by the board.

A. Rates must include experience rating and merit rating plans. The experience rating plan must be the uniform experience rating plan. The merit rating plan must provide the maximum credits possible to Safety Pool certificate holders on the basis of individual loss experience, including frequency and severity, consistent with this chapter and sound actuarial principles.

B. The board shall review the rates, rating plans and rules, including rates for individual classifications and subclassifications, in the Accident Prevention Account and the Safety Pool at least once every 2 years and may review rates more frequently if necessary.

6. Mandatory deductible. A deductible applies to all coverage for certificate holders in the Accident Prevention Account that meet the following qualifications:

A. A net annual premium of \$20,000 or more subject to adjustment, pursuant to this section, in this State;

B. A premium not subject to retrospective rating; and

C. The policyholder's threshold loss ratio, as determined under subsection 4, paragraph B, subparagraph (1), is 1.00 or greater.

The deductible is \$1,000 a claim but applies only to wage loss benefits paid on injuries occurring during the year of coverage. The sum of all deductibles in one year of coverage may not exceed

2 the lesser of 15% of net annual payment for coverage or \$25,000.
3 Each loss to which a deductible applies must be paid in full by
4 the fund. After the year of coverage has expired, the
5 certificate holder shall reimburse the fund the amount of the
6 deductibles. This reimbursement is considered as payment for
7 coverage for purposes of cancellation or nonrenewal.

8 For purposes of calculations required under this section, losses
9 are evaluated 60 days from the close of the year of coverage.

10 Beginning October 1, 1996, the board shall adjust annually the
11 \$20,000 payment of coverage level established in this subsection
12 to reflect any change in rates for the Accident Prevention
13 Account and any change in wage levels in the preceding calendar
14 year. Changes in wage levels are determined by reference to
15 changes in the state average weekly wage, as computed by the
16 Department of Labor, Bureau of Employment Security. Any
17 adjustment is rounded off to the nearest \$1,000 increment.

18
19 7. Retrospective rating. Retrospective rating plans must
20 be available in accordance with this subsection. The board shall
21 establish standards governing the application of retrospective
22 rating plans.

23
24 A. The board shall impose retrospective rating plans under
25 the following circumstances.

26
27 (1) Within the Accident Prevention Account under the
28 standards the board may order, after hearing, a
29 retrospective rating plan for a certificate holder that
30 has sufficient size in terms of payment for coverage
31 and number of employees to warrant such a rating and:

32
33 (a) For the 3 most recent years for which data is
34 available, an experience modification factor and a
35 loss ratio that indicate a serious problem of
36 workplace safety; or

37
38 (b) A demonstrated record of repeated serious
39 violations of workplace health and safety rules
40 and regulations adopted under Title 26, chapter 6
41 or 29 United States Code, Chapter 15, whichever is
42 applicable.

43
44 (2) The maximum payment for coverage, including any
45 applicable surcharge under this section, may not exceed
46 150% of the standard payment for coverage.

47
48 B. Voluntary retrospective rating plans must be available
49 to certificate holders as part of the coverage offered by
50 the fund.

2 8. Fund excess and deficit. On October 1st of each year
the board shall determine whether the money in the fund is
4 sufficient to meet anticipated expenses, losses and reserves for
each policy year. All deficits and excess money must be
6 apportioned as follows.

8 A. All deficits must be shared through an assessment on all
certificate holders in existence at the time of the
10 assessment that purchased coverage through the fund in the
year of the deficit.

12 (1) Certificate holders that in the year for which the
14 assessment is levied experienced actual and anticipated
losses greater than the premiums paid to the fund are
16 liable for 50% of the deficit.

18 (2) All certificate holders are liable for 50% of the
20 deficit.

22 B. All excess money must be shared through a refund to all
certificate holders in existence at the time of the refund
24 that purchased coverage through the fund in the year of the
excess and that in the year for which the refund is given
26 experienced actual and anticipated losses less than the
premiums paid to the fund.

28
30
32 **STATEMENT OF FACT**

34 This bill makes the following changes in the workers'
compensation laws.

36 1. The bill deregulates the voluntary market rates for
workers' compensation insurance coverage.

38 2. The bill moves all of the business currently in the
40 workers' compensation insurance residual market into the Workers'
Compensation Employers' Mutual Fund, run by the Board of
42 Directors of the Workers' Compensation Employers' Mutual Fund who
are employers and funded 100% by the employers.
44

TESTIMONY

BLUE RIBBON COMMISSION ON WORKERS COMPENSATION

BY

RICHARD A. SAWYER, C.P.C.U., A.U.

PRESIDENT, ACADIA INSURANCE COMPANIES

Good Morning, my name is Richard Sawyer, and I am the President of the newly formed Acadia Insurance Company. Acadia is a domestic insurance company. That fact alone is exciting because it has been a very long time since an insurance company has formed and become chartered under the laws, rules and regulation of the State of Maine. It is our intent to serve the good citizens of this state by writing all lines of property and casualty insurance. Our portfolio of products will include homeowners, private passenger automobile, commercial automobile, business property, general liability insurance, inland marine and the controversial and troubled workers compensation line. The newspaper headlines could lead one to believe we will be focusing on workers compensation. Though we have chosen to be a participant in the workers compensation market, it will have no greater share than any other line we write. I wish to emphasize that Acadia Insurance Company is an all lines property and casualty company.

The \$64,000 question seems to be: "Why would anyone in their right mind want to enter the workers' compensation market in this state?" What great things do I know that the rest of the industry doesn't? There's nothing mystical or magical about it and once you know a little bit more about me, perhaps it will make more sense.

I am a native of the State of Maine. I was born and reared in the small town of Jay where my father worked in the local paper mill. I went to college in Bangor and it was after graduation that I left Maine. I spent the next four years of my life working in Rhode Island for a time and then Massachusetts. There is a great deal of truth to the adage that we never realize what we have until we lose it. It was only after I left Maine that I grew to know what I had left behind. I missed the small town quality of people watching out for one another. I missed knowing my children would be safe walking to and from school and I missed the compassion that comes with neighbors talking over problems. Suddenly I knew that the morals and the beliefs of Maine people were important to me and set the environment in which I wished to live my life.

Now, I had chosen the insurance industry as my career. Don't ask me why. It wasn't something that I had dreamt about doing as a child. I, like most people in our industry, just seemed to fall into it. But once in it, there's no way that I could let it become just a job. I decided that I wanted to be the very best

insurance person that I could possibly become. That means building an organization that contributed to the state, helping people who, like myself, really wanted to stay in Maine to stay here, and creating an environment in which professional dedicated people can do their jobs well. In working with these beliefs, I have seen enthusiasm and excitement cause outstanding growth. In my past employment, I was the 16th employee to be hired and helped build that organization to be 210 strong. In my present company, we already have over 40 employees and should be over 100 by year end. There is a great deal of enjoyment and satisfaction in watching dedicated professionals, who are where they truly want to be, accomplish nearly impossible feats in the development of a company.

With all that said, I believe that is it only a Maine person that could convince a company to invest here. It is way too frightening for any person or company who is not familiar with Maine or who is not familiar with the determination of the Maine people to believe that a profitable insurance environment could ever be possible. Now, I have bet my career, as have the people who have joined me in this endeavor, that the problem with workers' compensation in this state is going to be fixed. We want to be part of the solution, and that is one of the reasons that we have actively sought our license. But, until that solution occurs, we must enter the market with a great deal of caution.

Since 1978, I and others at Acadia have been struggling with this troubled workers' compensation system. We have constantly talked with our legislators, participated in work sessions, introduced legislation and made recommendations, many of which were adopted. I think that the system has gotten better. It's not where it should be, but I do believe that we have come a long way. I have seen what the legislature can do in the most difficult of atmospheres. I am well aware of the qualifications of this distinguished panel, and I have seen the determination of this administration to come to grips with this problem and resolve it once and for all. If we continue to pool our resources, I believe that a permanent healthy solution can be found.

So are there any specific ideas that we can offer? Is there a way of describing the problem differently or with a fresh perspective?

It isn't going to do us any good to try to place blame. It isn't going to do us any good to throw our law out the window and try to bring in another state's law. For those of us who have worked in this system, for those of us who have watched what has happened with this system as the years have gone by, we see the problem as cultural. The emphasis needs to be placed on changing that culture.

Workers' Compensation was designed for the employers and employees. It is interesting that this system, then, should put

the two parties that it is designed to protect so much at odds with each other.

To replace workers compensation commissioners and put in magistrates won't change mindsets or culture. Replacing insurance companies with a state fund won't change mindsets and culture. It simply places the present system in the hands of government rather than private enterprise. Trying to eliminate lawyers from the system won't change culture. There are times when lawyers are prudent, beneficial and wise. And saying all physicians rip off the comp system won't change culture. It only angers the physicians who will be needed under any new law.

So how do we change this culture? We need to put the people who are to benefit from this system back together. We must find ways to remove the adversarial relationship that is bred by the system when an accident and injury occur. We believe that it is time to find ways to assist, encourage, reward and in some instances mandate the resolution of cases between employer and employee rather than adjuster and employee or worse yet, adjuster and attorney.

We believe that Maine does not have terrible employees. We also believe that Maine's employers are not below average in safety management. However when there has been an accident, our system prevents communication between employer and employee. This lack of communication increases the desire to drag out recovery or

increases expectations as to what should be covered under the act.

If other state systems have done anything right, they have perfected a procedure for formal discussion between employer and employee. They have found ways of effective mediation between employer and employee and they have found ways to get the employer to constantly follow up on the condition of injured employees. Basically, finding a way to get the employer and employee to talk, both of them trying to settle their own case. It is not a novel approach, and I am convinced that if other states can do it, Maine certainly can.

Benefits from such changes will not be evident immediately and it may take some time for all parties to be comfortable in their new roles, but unless and until we change the way we think, all the law changes in the hopper won't be able to cure the ills of our system.

In closing, I realize that my thoughts are not revolutionary but they have been based on my experiences and my beliefs in people. I resisted the temptation to give you a checklist of ideas that others have presented - telling you which ones we believe can work and which ones will have problems. We can do that if you believe that would assist you, but I have enjoyed this opportunity to offer a different perspective. I am excited about our new company, and about the work that is being done in

workers' compensation. I see them both as benefiting the people of Maine and helping to improve our state. We would be happy to assist you in any work sessions if you believe that could be of benefit. I would be happy to try to answer any questions.

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Grover E. Czech
Vice President
Government Affairs

June 5, 1992


The Blue Ribbon Commission on Workers' Compensation
State House Station No. 34
Augusta, Maine 04333

Gentlemen:

Enclosed for your information is a recent position statement by The Maryland Insurance Group on workers' compensation reform in Maine. The paper has been distributed to those individuals and organizations listed at the bottom of this letter.

As one of the three major insurers remaining in the Maine workers' compensation market, we would like to have an opportunity to personally appear before the Commission to discuss what we believe needs to be done to repair the Maine workers' compensation system.

We look forward to your reply.

Sincerely,

Grover E. Czech
Vice President
Government and Industry Affairs

GEC/clb
Enclosure

Distribution List:

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POSITION STATEMENT
OF
THE MARYLAND INSURANCE GROUP
ON
WORKERS' COMPENSATION REFORM
IN THE STATE OF
MAINE

The Maryland Insurance Group, through Maine Bonding & Casualty Company (chartered in 1893), has actively participated in the Maine market since 1926. Our Company has 160 employees based in Maine, and over 20 employees in the Home Office service our Maine book of business. In addition, we have many independent agents residing in the State.

We have remained in the Maine workers' compensation marketplace despite great adversity over the past 10 years while most other carriers have withdrawn. As a result, we are one of three remaining carriers active in the workers' compensation market and have an overall market share of almost 20%.

There are a number of major problems that continue to trouble the workers' compensation system in Maine. We believe that these problems must be resolved in 1992 if the private insurance market is to survive in the State. A significant rate increase is needed to achieve rate adequacy. Regrettably, the Legislature, by law, recently directed the Superintendent of Insurance to delay consideration of the pending 32% rate increase until November of this year with an effective date of August 1, 1992. This delay will lead to further losses in both the voluntary and residual markets and create greater uncertainty as to future prospects for rate adequacy. In addition, our Company faces residual market deficits for 1989, 1990, and 1991 in the millions of dollars.

The State has not allowed us to collect enough premium to pay for these losses which will have to be paid out of surplus earned from other sources. We are also facing a baseless anti-trust suit instigated by a group of out-of-state attorneys and, even if the suit is dismissed as being without merit, we will have incurred over a million dollars in defense costs. Finally, a lawsuit has been filed against the Insurance Department's 1991 residual market regulation which creates stability and predictability in residual market assessments for 1992 and into the future. If this regulation is revised or overturned, our exposure to assessments will increase considerably.

Given this ominous background, we believe there are actions that must be taken by the Maine Legislature to resolve these problems and to recreate a healthy competitive workers' compensation market in the State. Our recommendations to accomplish this are as follows:

I. ENACT COMPETITIVE RATING LEGISLATION

The insurance industry is not a monopoly similar to the power company and does not require monopoly regulation. There are at least three competing carriers and more carriers are likely to return to the market over time if they are allowed to establish

prices based upon competitive forces. The Maryland Insurance Group does not believe that the Maine workers' compensation marketplace can be effectively served under the current prior approval system.

II. THE WORKERS' COMPENSATION RESIDUAL MARKET MUST BE MADE SELF-SUPPORTING

Actions by the State Legislature and the Department of Insurance over the past several years have resulted in substantially inadequate rates in both the voluntary and residual markets. As a result, the workers' compensation pool has developed hundreds of millions of dollars in losses, a substantial part of which must be paid for by our Company. It is unfair and bad economic policy to require the seller of a product to subsidize its costs to its buyers. For The Maryland Insurance Group to effectively continue to serve the Maine workers' compensation market, these subsidies must end and the residual market be made self-supporting. This can be accomplished in one of two ways:

- a. If the workers' compensation pool is to continue, it should by law be made self-supporting on a year-to-year basis. An annual reconciliation system, through a surcharge on employers, should be instituted to accomplish this purpose. The surcharge must not be subject to prior approval and any overcharges or undercharges must be adjusted annually, or;
- b. The establishment of a competitive state fund would serve as both a competitive insurer and a market of last resort. This fund must be self-supporting and operate on a level playing field with insurers in the private market. The privately-run workers' compensation pool would be abolished at the time the competitive state fund begins operations and all pool business would be moved into the fund at that time. Prior to the start-up of the state fund, insurers should be given certain incentives to encourage them to take business out of the pool and write it in the voluntary market.

III. ENACT COST CONTAINMENT REFORMS

The cost of Maine workers' compensation is relatively high with regard to the cost of similar systems in other states and with regard to the ability of the Maine economy to afford such an expensive system. Additional reforms should be enacted to bring the cost of the Maine system in line with that of other states and to make it more affordable.

While the adoption of a competitive rating system and the creation of a self-supporting residual market will help improve market availability, the system will continue to have problems unless underlying costs are contained. In order to reduce the costs of the system, reforms should be adopted in the following areas:

- a. Eliminate both the opportunity and incentive to litigate claims by simplifying the statute, use a predominant cause definition, cap permanent partial benefits

duration at 250-300 weeks, pay legal fees out of awards, limit lump sums, and tighten use of AMA guides in PPD cases.

- b. Restructure the current workers' compensation commission to reduce litigation and improve caseload management.
- c. Enact medical cost containment provisions by including an effective fee schedule and encouraging managed care arrangements.

IV. MICHIGAN SYSTEM - COMMENTS

We have met with the Maine Workers' Compensation Group and have learned of their support for the adoption of the Michigan workers' compensation law in the State of Maine. While we are very supportive of this cooperative effort between labor and management groups to bring about needed reform, we offer the following cautions:

- 1. Before any final judgment is made regarding the adoption of the Michigan law in Maine, the determination must be made as to the approximate cost of that system as it would operate in Maine. It is possible that the system could cost as much and maybe more than the present system.
- 2. As in any workers' compensation system, there is a great deal of settled case law in Maine interpreting the workers' compensation statute. The adoption of the Michigan system in Maine without adoption of interpretive Michigan case law, could result in years of litigation to establish new case law. Further, there is no guarantee that the Maine courts would interpret the law as it has been interpreted in Michigan.
- 3. The Michigan plan includes a competitive state fund and a privately-run workers' compensation pool. This system would not be acceptable to The Maryland Insurance Group in the State of Maine. We believe there should be only one residual market mechanism and that it should be fully self-supporting. Our preference at this time in Maine is the adoption of a competitive state fund that will serve as the market of last resort.

* * *

For further information, please contact Grover E. Czech, Vice President, Government and Industry Affairs at 410-338-9681.

June 2, 1992

TESTIMONY OF
WILLIAM BLACK AND MARTHA MCCLUSKEY
PUBLIC ADVOCATE OFFICE
TO THE BLUE RIBBON COMMISSION
ON WORKERS' COMPENSATION

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TESTIMONY OF
WILLIAM BLACK AND MARTHA MCCLUSKEY
PUBLIC ADVOCATE OFFICE

TO THE BLUE RIBBON COMMISSION
ON WORKERS' COMPENSATION

Monday, June 8, 1992

I. INTRODUCTION

We are Bill Black and Martha McCluskey, of the Public Advocate office.

By statute, the Public Advocate has the responsibility of representing workers' compensation policyholders when the insurance carriers ask for rate increases. Since 1987, we have participated in each of the rate cases that have occurred when the National Council on Compensation Insurance (NCCI) has sought to increase workers' compensation rates. We have also participated in the portions of those proceedings in which the Superintendent of Insurance has determined the amount of savings that would be generated by the law changes enacted by the Legislature in each of the years 1983, 1985, 1987 and 1991. Our presentation today is based on our roles as advocates for the ratepayers and on the picture of the Maine workers' compensation market that we have developed while challenging the carriers' rate requests in those proceedings.

A. RELATIONSHIP BETWEEN COSTS AND INSURANCE STRUCTURE

The costs of the workers' compensation system cannot be simply and directly reduced to particular, isolated benefit provisions. The costs resulting from any particular benefit provision, taken alone, can vary widely depending on the system in which it operates. We think that the financing mechanism -- the insurance structure -- plays an important role in shaping some of the systemic "cultural" factors that others have described as the root of Maine's high workers' comp costs. Any benefit system operates within a framework of financial incentives and disincentives which shape the behavior and goals of those involved in the system. Changing this system of incentives offers hope for significant cost savings above and beyond any changes made in the benefit system.

For example, the most recent rate case for the first time included evidence about Maine's self-insurance market. With the same benefit system and comparable rates, the costs of the system were dramatically lower for many self-insurers compared to commercially insured employers. A short time after changing insurance systems, a variety of self-insured businesses achieved significant success in improving safety, decreasing litigation,

and otherwise reducing claims costs. This cultural change appears to have been accomplished largely by the different financial incentives and disincentives that exist in those two markets.

But unless these incentives are changed, other reform efforts may not work. A review of the recent series of workers' compensation crises and attempts at reform in 1985 and 1987 shows that benefit cuts, rate increases, deregulation with competitive rating, and protection of insurers from residual market liability are reforms that have all been tried before in various combinations but have failed. We think that part of this failure stems from the failure to find a way to change the incentives in the underlying insurance regulatory system.

B. RECENT HISTORY OF MAINE INSURANCE REGULATION

In theory, a healthy competitive insurance market will provide incentives that make the system work in the interests of workers, employers and insurers together. In a competitive market, insurers profit to the extent they can minimize losses through efficient, fair claims handling and effective safety and rehabilitation efforts.

The market for workers' compensation in Maine was never structured as a purely competitive market, but instead has been subject historically to government ratesetting and regulation -- in part due to its social importance as a mandatory protection for workers and employers. Since the early 1980's the Maine market has been steadily growing less competitive: the involuntary residual market has now reached the point of causing the whole system to collapse.

1. Insurance Regulation in the 1970's and 1980's

In recent Maine history, traditional rate regulation has not worked to simulate good competitive incentives for cost control. When costs started rising in the mid-1970's as Maine followed the national trend toward more comprehensive workplace protection, problems over ratesetting began. In the 1970's, ratesetting often consisted of little more than a 20-30 page filing by the NCCI on behalf of all of the workers' compensation insurers, and a one-page approval by the Superintendent issued several days later, without analysis of the actual profit allowed by the rates. From 1970 to 1977 there were annual rate increases averaging about 12% a year. From 1978 to 1981, insurers received three rate increases of 20-25%, and claimed their actual costs were much higher.

Those substantial, repeated rate increases sparked concerns

about the effectiveness of the regulatory process. Employers and labor began to be concerned about the possibility of excessive insurer profits; they argued that the NCCI did not provide sufficient information to determine whether the requested rates were reasonable.

Even if insurers were correct that the rate requests were driven by rising costs and shrinking profits, it appears that the regulatory system allowed insurers to deal with these rising costs by seeking rate increases rather than by seeking new ways to reduce costs through new safety and rehabilitation initiatives or by more effective claims management. Because workers' compensation is a long-tailed line of insurance, the financial benefits from reducing loss costs often might not accrue for many years. In contrast, minimizing claims handling expenses and seeking rate increases to cover rising losses would tend to maximize short-term earnings, while driving up costs over the long run.¹

Another problem with the ratesetting system is that rates are set based on the aggregate costs of all insurers, collected by the NCCI. Ideally a competitive market would push insurers to meet the standards of the most efficient carrier. In contrast, regulated ratemaking tends to set the market price at an average level that will permit some insurers to maintain mediocre efficiency. Competition may also be inhibited by the fact that the NCCI plays two roles in the ratesetting process: it collects and assembles all data concerning the carriers' costs and profitability, while at the same time it acts as their advocate for higher rates.

In response to the concerns about the steadily rising rates of the 1970's, legislative reforms in 1981 and 1982 overhauled the ratemaking process. For the first time, the NCCI was required to provide detailed information on the effect of carriers' investment income on profit. On a long-tailed line of insurance such as workers' compensation, earnings derived from the investment of premiums and reserves often result in an overall profit despite a loss on the underwriting business (premiums compared to claims costs). The 1981-82 legislative reforms also enacted an all-or-nothing provision that required the Superintendent to reject any rate request that was not entirely supported by the evidence, even if a lesser increase may have been justified.

¹For larger policyholders, these problems of incorrect incentives were somewhat less because insurers offered retrospective rating policies that shifted the risk of loss to employers, encouraging employers to institute cost control measures.

While those reforms made it more difficult for insurers to get rate increases, they were not successful in creating incentives for more efficient ways of responding to rising claims costs. Instead, insurers appear to have responded by resisting the new government mandates, and when that failed by curtailing their participation in Maine's voluntary market. The result was a breakdown of the ratesetting process in the early 1980's.

From 1981 to 1985, no rate increases were approved. Insurance companies fought the requirement that information on investment income must be provided in calculating profit, and that issue was not resolved until the Law Court ruled against the insurers in 1984.² By 1985, the residual market held 30% of Maine's workers' compensation premium and 85% of Maine's employers.

The insurers' decisions to move policies into the residual market as a way to avoid high costs had the secondary effect of creating an environment that encouraged costs to go up even more. Because no one insurer was responsible for these costs, and because the costs for these policies were spread over the entire market, the responsibility for safety and cost control was diffused -- pushing overall market losses even higher. These problems threw Maine into our first major workers' comp insurance crisis and the major legislative overhaul of 1985.

2. The 1985 Reforms

In 1985, Maine faced much the same as the issue we face now: a disproportionately large residual market. The causes of that problem were, like now, subject to dispute -- insurers claimed high costs and inadequate rates made Maine unprofitable, and critics claimed that insurers were exerting political pressure to protect excessive profits.

The solutions offered by the 1985 reforms, like the current proposals, were designed to create a competitive market. The voluntary market was deregulated, allowing competitive "file-and-use" ratesetting in hopes of avoiding the past regulatory impasse. A new, state-mandated fund was set up to insure residual market ("assigned risk") policies (divided into the high-risk Accident Prevention Account and a Safety Pool).³ A comprehensive system of benefit reforms was enacted, with an estimated savings impact of about 8-11%; these reforms included a series of provisions designed to improve safety.

²See NCCI v. Superintendent of Insurance, 481 A.2d 778 (Me. 1984).

³24-A M.R.S.A. §2350 (repealed in 1987 and replaced by § 2366).

The 1985 competitive rating attempt was derailed before it even got started -- at least in part because of the failure to adequately address the problem of Maine's large residual market. The 1985 reforms mandated a transitional period that capped residual market rate increases through 1988. While rate adequacy was still in dispute, and before competitive rating could go into effect, the residual market upset the system.

Because the residual market during the transitional year of 1986 had grown to more than 50% of the premium in the Maine market, the risk of residual market rate inadequacies falling on the remaining voluntary market insurers became a threat to insurers that outweighed any potential for savings under the new law. The 1985 law reforms divided residual market liability on a pro rata basis according to market share. As insurers decreased their market participation, the risk of liability to the remaining carriers increased. The remaining carriers faced added pressure to leave the market to avoid being the "last man out" who would be stuck with the entire liability. This fear of residual market liability was a major factor in the insurers' refusal to voluntarily service the residual market in 1986.

When the Superintendent attempted to maintain the market by mandating insurers to participate in the residual market pool, they sued claiming that this involuntary participation and rate cap would result in unconstitutional denial of an opportunity to earn a fair profit. The court ruled that the laws were not unconstitutional so long as the carriers had the opportunity to withdraw from the market.

To avoid the residual market liability, insurers then announced plans to withdraw from the market.⁴ As a result, the 1985 reforms unintentionally led to the 1987 crisis.

3. The 1987 Crisis and "Fresh Start" Reforms

As a result of the withdrawal of the insurance carriers from the market, the legislature enacted another series of comprehensive reforms. The 1987 laws correctly recognized a flaw in the 1985 reforms: the failure to address a problem that occurs under the peculiar condition of the Maine market because of its disproportionately large residual market -- which held 67% of the premium in the Maine market by 1987.

a. Problem of Residual Market Liability

Since 1985, Maine has had by far the largest residual

⁴ An antitrust suit challenging these industry-wide withdrawal attempts in 1987 is currently pending in federal court.

market, in proportional terms, than any other state. In fact, since 1985, Maine's residual market has been more than three times the size of the average pool, and remained close to 90% of the insured premium market for the last few years.⁵ Michigan's residual market, in contrast, was 6.8% of the statewide premium in 1985 and has now stabilized at 10%.

If insurers run the risk of liability for residual market deficits, and if the residual market is large relative to the voluntary market, this risk may pose a threat to individual insurers -- particularly if there are few individual insurers in the market to share that risk.⁶ As a result, even if rates are adequate to allow insurers to underwrite more policies voluntarily and competitively, individual insurers will avoid writing significant amounts of voluntary policies until the residual market shrinks -- despite otherwise adequate rates. The large residual market in Maine has created a Catch-22 (or a "prisoners' dilemma," in economic terms): each insurer rationally prefers to wait until the potential residual market liability decreases before it significantly expands its voluntary underwriting, but that residual market liability will not decrease until a number of insurers take policies out of the residual market.

The goal of the ill-fated "Fresh Start" law was to address this problem of residual market liability as a necessary step toward restoring a competitive market.⁷ Because insurers refused to assume losses for the residual market, the legislature agreed to protect insurers from residual market liability in order to preserve the market. Beginning in 1988, the "Fresh Start" law created a new state-mandated residual market fund,⁸ and shifted the risk of rate inadequacy in that residual market onto employers by imposing retroactive employer surcharges in the

⁵Rhode Island and Louisiana are the only other states that have residual markets that dominate the market, and these states face similar crises.

⁶The proportion of the market in the residual market is what is important, not the absolute size. When a residual market dominates the voluntary market, and when few insurers remain in the voluntary market, the costs of the residual market can have a major impact on any one insurer. Where the residual market is smaller relative to the voluntary market, insurers may be able to use voluntary market profits to cover any residual market liability.

⁷See 24-A M.R.S.A. § 2367.

⁸ 24-A M.R.S.A. § 2366.

event of residual market deficits. In return, in order to further encourage the transition to a competitive market, insurers were prohibited from making profit in the residual market. Furthermore, if insurers failed to live up to their half of the bargain by repopulating the voluntary market, Fresh Start imposed an assessment on insurance companies of up to 50% of any deficit for policies written from 1989 on.

In addition to the attempt to solve the residual market problem, the 1987 reforms enacted comprehensive benefit reforms aimed at reducing costs. The law also returned to a system of regulated rates set by the Bureau of Insurance. From 1988 to 1991, the NCCI received rate increases amounting to a total of about 47%.

b. Reasons for Residual Market Failure

Our analysis of the reasons for the failure of the 1987 reforms is set out in the introduction to our most recent brief in the 1992 workers' compensation rate case. In short, insurers did not take advantage of the opportunity to avoid residual market liability by repopulating the voluntary market under improved rate conditions.

Since 1988 there has been virtually no movement of policies from the residual market into the voluntary insurance market. Nevertheless, the residual market has decreased. Employers have instead moved into self-insurance. Currently, about 40% of the market is self-insured, and that proportion is expected to grow to 50% by the end of 1992. In contrast to the commercial insurance market, rates have been adequate or even excessive in the self-insured market. Most residual market employers who have moved into self-insurance have managed to cover their projected costs, and many have even accumulated a surplus -- while paying rates and benefits comparable to those in the commercial insurance market.

About 60% of Maine's workers' compensation premium now remains in the commercially insured market. Of this, close to 90% is in the involuntary market and only about 10% is voluntarily insured. After the 1987 reforms, some insurers chose to go into the residual market servicing business on a large scale, rather than return to the voluntary market. Residual market servicing offered an opportunity for a few insurers operating on a large scale to make substantial profits on servicing fees while being protected from underwriting losses, although the level of profit allowed by the servicing fee has never been determined by the Bureau of Insurance. But the greatest problem is that the structure of the residual market created incentives for driving up claims costs.

As created by the 1988 Fresh Start law, the current residual

market pool is structured so that it is in the interests of those who control the pool (insurers) to let losses escalate. Servicing carriers are paid a percentage of premium up front, from which they must cover claims handling expenses. Whatever is left over from the servicing fee is kept as profit. As a result, servicing carriers can profit in the short run by minimizing servicing and by allowing claims costs to rise.

In contrast to the self-insurance market, where servicing is a competitive business, servicing the residual market has been restricted to insurers assigned by the NCCI. The NCCI manages the residual market pool on behalf of insurers, with virtually no government or employer oversight. Yet Fresh Start shifts the costs of losses due to poor claims servicing to employers, except (after 1989) in the event of an assessment for failure to repopulate the voluntary market.

Although it was intended to do just the opposite, the Fresh Start assessment that is expected to be levied on insurers for their failure to repopulate the voluntary market has precipitated the current market collapse. The rules for allocating the assessment allowed the larger servicing carriers to spread (or, in the case of American Fidelity/Northern MGA, to completely avoid) the risk of liability onto other servicing carriers -- insulating the largest servicing carriers from the effects of bad claims management and inadequate safety services. Because of the time-lag in collecting data on the residual market deficit for past policy years, insurers anticipated the first assessment to be imposed in 1992. By the end of 1991, most insurers with a small servicing business faced the possibility of residual market assessments cutting into (or outweighing) their servicing profit, and decided to withdraw from the market altogether. When these insurers withdrew, the major servicing carriers could no longer spread the assessment risk to others -- and they in turn announced plans to withdraw.

To hold the market together temporarily for 1992, the Bureau of Insurance approved Rule 650, which allowed servicing carriers to spread the most of the risk of residual market liability onto other non-participating insurance companies, who would be unable to withdraw from the market until the end of 1992. But at that point most of these insurers will withdraw from the market, and the servicing carriers will be faced with the entire residual market assessment risk -- a risk which they logically do not want to bear, particularly since they cannot receive underwriting profit for the residual market. That is why, regardless of the rate case decision or benefit reforms, the residual market assessment rules will cause the market to collapse by 1993.

There has been a long and bitter dispute about whether or not the abandonment of the Maine market was originally precipitated by legitimate perceptions of rate inadequacy on the

part of Maine's workers' comp insurers. A resolution of that debate is not necessary to solve the current crisis, however.

When the residual market becomes the dominant market, the problem cannot be resolved simply by undoing what we did wrong before -- even if that were possible. Once the residual market grows beyond a certain point, the problem will not be resolved simply by restoring benefits and rates to what would be adequate under well-functioning, normal market circumstances. The reason that tactic will not work is that insurers will quite rationally demand that rates be high enough not only to cover voluntary market policies, but also to cover any potential liability from residual market policies. If few insurers are in the voluntary market, and if each voluntary market insurer has only a small volume of business, then voluntary market rates must be raised dramatically to cover the danger of substantial residual market losses falling disproportionately on any one insurer.

It might appear at first glance that the problem is simply that residual market rates have been inadequate: if residual market premiums are sufficient to cover costs, insurers will not have any liability. The NCCI points to apparent residual market deficits for prior policy years as proof that past residual market rates have been inadequate. But given the current structure of the market, rate inadequacy is a self-fulfilling prophesy. Rates may be perpetually inadequate to cover actual costs because the residual market has no restraints on costs from competition and no oversight in lieu of competition, and because those who manage and service the residual market gain (at least in the short run) to the extent they let claims costs rise. In other words, making residual market rates "adequate" without changing the structure of the residual market may be like trying to fill a bucket with water without repairing the hole in the bottom -- you'll never get there. Furthermore, even if rates are likely to be sufficient to cover costs, the risk of liability may be sufficient to deter insurers from participating in the voluntary market.

II. INSURANCE REFORM PROPOSALS

A. SUMMARY OF RECOMMENDATIONS

With respect to insurance coverage, we make substantially the same general recommendation as made by the Mitchell-Kany proposal, the Maine Chamber of Commerce, and the Council of Self-Insurers. We believe this recommendation is also consistent with the Workers' Compensation Group's proposal to adopt a new insurance system modelled on Michigan's system because it provides a means for implementing a new insurance source that would function like a competitive state fund but which would be designed to work in the existing Maine market. In sum, we recommend that:

1. The voluntary market be deregulated.

(a) Insurance carriers should be allowed to set their rates on a "file and use" basis -- i.e. without prior approval by the Superintendent of Insurance.

(b) Insurance carriers should not be required to have responsibility for servicing or underwriting any portion of the residual market.

2. In the place of the current residual market and "Fresh Start" system, substitute a system of mutual pools together with a High-Risk Pool that will act as a "provider of last resort."

The structure that is adopted for that market will greatly effect the costs that it will be required to cover. But before doing so, we want to discuss some key principles that should govern the new system of employer/employee-managed pools.

B. GUIDING PRINCIPLES

1. **Direct Employer/Employee Responsibility and Control**

In the past when commercial insurers have provided workers' compensation insurance, a bargain was struck in which employers have ceded too much responsibility to insurance carriers. Not only have the carriers been responsible for adjusting claims and paying benefits, but employers have also relied on the carriers to implement effective return-to-work program and safety programs.

As described earlier, during the period from 1981 through

1986, the insurance carriers were not granted any rate increases. Several employers and third-party administrators have told us that the carriers responded to that failure to increase rates by cutting back on the assistance normally provided to employers in establishing workplace safety programs. Prior to 1985 a carrier may have provided a large employer with seventy or eighty person-days per year of safety assistance at the work place; after 1985, the number of safety assistance days had dropped to two or three days per year.

At the same time, within the carriers' operations increasing pressure was put on the claims departments to reduce servicing expenses. Claims adjustors were given increased case loads and greater emphasis was placed on closing claims by lump sum settlement.

The situation was exacerbated by the fact that the current regulatory structure provides no incentives for the carriers to provide those safety programs. Under the ratemaking system, the extra costs that result from the carriers' failure to limit or prevent injuries or lost-work time are simply passed on to employers in the form of higher rates.

In establishing a new structure for workers' compensation coverage -- whatever it may be -- we recommend that the Blue Ribbon Commission adopt a mechanism that places responsibility for return-to-work programs and safety plans on the parties who will benefit directly from those cost-saving measures: i.e., Maine's employers.

We have talked with one third-party administrator who has explained what it requires of each employer when it agrees to provide servicing of an employer's workers' compensation claim. The TPA agrees to take on the servicing work only if the employer agrees that (1) it will take an active role in instituting the programs necessary to control costs and (2) it agrees that the goal is to not simply to adjust claims, but to reduce the employers' long-term cost of risk. The Commission should structure its reforms so that they require the same degree of commitment from employers.

Employers can no longer abrogate responsibility for controlling workers' compensation costs to the insurance companies. The experience of employers who have recently become self-insured or joined self-insured groups has shown that when the responsibility for preventing injuries and controlling losses is put directly on employers, they will respond, and workers' compensation costs can be reduced as a result.

2. Change the Culture

One of the best analyses of the causes of the increasing costs of workers' compensation that we have seen is a fourteen-page article that appeared in the February issue of NCCI Digest. Written by a defense attorney who has worked closely with insurance carriers, the article discusses how the movement towards minimizing expenses within the carrier's claims departments -- by using telephone adjusting and high case loads -- has caused the carriers' losses to increase. The author's explanation is that the carrier's hesitance to incur expenses have resulted in soaring losses:

The essence of good claims handling is immediate, on-site investigation and personal contact and rapport with the injured employees, and that's what has been forgotten. If the good claims handling which used to be typical of the industry had not been abandoned, I don't think these soaring losses would have occurred.

But the point in that article that is most pertinent to the situation here in Maine is the discussion of how the management-labor relations at a workplace has a direct effect on the costs of workers' compensation. The more amicable the "culture within a plant, the less costly its workers' compensation costs will be.

When a person sustains an injury -- not the fake ones, of course - that is a very personal thing to him. It is best dealt with on a personal level. But what happens instead? Injured parties get long distance calls from claims adjusters in another city, who are total strangers and no matter how reassuring their manner, they just don't establish sufficient rapport. Thus, direct settlements without litigation become difficult, if not impossible, for lack of any personal rapport with the claims adjuster negotiating the settlement.

The author goes on to explain how, in his experience, direct and immediate attention by the employer is the most effective method of controlling costs. If that is not available, personal contact by claims people is necessary.

In Maine employers and representatives of third-party administrators confirm that the central problem in Maine is the workplace "culture." They say that where there are unfriendly antagonistic management-labor relations, the result is a workers' compensation system that is driven by confrontation. For example, one third party administrator told us that occasionally when an employee is injured, the response of the employer is to say "we don't want him here; get rid of him." The TPA's first battle then is to explain to the employer how that response only serves to drive up its workers' compensation costs.

We believe that one of the biggest challenges that Maine faces is changing the culture at the workplace and specifically the culture that surrounds workers' compensation. One development that gives us hope is that a group of management and labor people -- the sixteen people that make up the Workers' Compensation Group -- have already started to change that culture and have had some significant success. We think that the Blue Ribbon Commission should take advantage of that initial collaboration and do whatever it can to help it to "snowball." The Commission can best accomplish that by involving management and labor representatives in the process of designing the structure of the new workers' compensation market. We recommend that you take advantage of a unique opportunity and require that management and labor help you to design the benefit and coverage system that is to be adopted.

Another development that gives us hope is that there are an increasing number of employers in Maine who have recognized that in order to cut their workers' compensation costs, they must take back responsibility for managing claims, returning injured employees to work and establishing effective safety programs. Many of those employers are in the self-insurance market.

To date, the Blue Ribbon Commission has heard presentations by parties who have described the problems that exist in the Maine workers' compensation system. We strongly recommend that you also take testimony from individual Maine employers who have instituted programs that have succeeded in cutting their workers' compensation costs. If it is to succeed, the structure that you adopt for the employer-managed mutual pools must require their members to incorporate the same sorts of measures that individual employers have adopted to cut their costs.

Therefore, we suggest that you ask to hear from employers such as John Bowman, of Saunders Brothers in Westbrook (854-2551), Ted Jellison of the Maine School Management Association (622-3473), Ben Dever, of Guilford Industries (876-3331) and Norman Elvin, of G&E Roofing in Augusta (622-9503).

C. DEREGULATED, COMPETITIVE VOLUNTARY MARKET

From our perspective as rate case participants, we agree that the current process does not seem to be the most effective way of ensuring efficient rates in the voluntary workers' compensation market. Ratesetting depends on projecting future costs based on actuarial analyses of past quantitative data. But these future costs depend to a large degree on non-quantitative factors like effectiveness of claims handling, loss control, and labor/management relationships. Although the rate proceedings now include a thorough review of detailed actuarial evidence on methods of calculating expected costs, the rate process has

provided virtually no effective means of reviewing and regulating the reasonableness of any of the costs, or of the non-quantitative factors that affect efficiency.

At best the ratesetting process has set rates that are likely to be adequate to meet the costs of an insurer of mediocre efficiency. And when costs rise, for whatever reason, this ratesetting process simply allows insurers to meet the costs by raising rates.⁹

When raising rates becomes the primary means of addressing rising costs, the stage is set for a confrontational culture: insurers are pitted against employers in rate cases; employers are pitted against workers for benefit reforms; some workers respond to unsafe workplaces, poor claims processing, and benefit cuts by turning to lawyers who can help them squeeze whatever they can from the system; insurers withdraw from the market altogether if employers and workers refuse to bear the costs. To break this cycle of crisis and confrontation, it is crucial that the insurance regulatory system contain strong financial incentives that work to encourage the main players in the system to take responsibility for reducing costs -- instead of simply spreading the costs onto others.

Other mechanisms for regulating workers' compensation insurance do a better job of encouraging the main players to address rising costs by more taking responsibility for reducing costs. Maine's self-insurance market, and competitive commercial insurance markets that exist in other states, contain such incentives for limiting costs. Evidence from the self-insurance market suggests that substantial opportunities for cost savings exist in the Maine market simply from changing the insurance structure. But any attempt to deregulate rates in the voluntary market must ensure that some alternative structure serves to promote cost reduction through innovative and aggressive safety programs, return-to-work programs, and efficient claims handling.

D. COMPETITIVE STATE FUND

One proposal for encouraging cost reduction is to deregulate ratesetting and to create a competitive state fund, such as the Michigan Accident Fund. Diversity in markets tends to promote

⁹ It may be possible for the current process to be used to address extreme and unusual abuses; for instance, the Public Advocate has a motion pending in the current rate case requesting an investigation of evidence suggesting that American Fidelity/Northern MGA loss data may be so inaccurate (in some cases double the actual figures) that it is completely unreliable.

competition and efficiency. If new suppliers can develop innovative ways of improving quality and controlling costs, other suppliers will be encouraged to follow this lead. As a different insurance provider designed with a different management structure and different (hopefully public) interests, a competitive state fund might in some circumstances be more successful at keeping costs down than private insurers. In markets where there is a danger of insufficient competition, but not a natural monopoly, the most effective form of regulation is often to allow competition against a publicly regulated or publicly managed benchmark, rather than to attempt to regulate prices for the entire market.¹⁰

Yet in order to create a new insurance source that works to improve competition in the voluntary market, it is important to understand how such an entity would fit into the existing (soon to be nonexistent) market in Maine. As we've discussed above, past reform efforts have failed at least in part because of an inability to make the transition out of the large residual market that is unique to Maine.

1. Need to Address Residual Market Problem

Regardless of the anticipated success of any reforms enacted this fall based on this Commission's recommendations, it is likely that only a few insurers will be in a position to immediately increase their voluntary market writings, particularly since most insurers are in the process of withdrawing their authority to write workers' compensation in 1993. The experience with the 1987 reform efforts demonstrated that even when insurers were given major benefit reforms and complete freedom from residual market liability for policies written in 1988, they were not willing to immediately pick up significant numbers of voluntary market policies. Some large national insurance companies may be slow to respond to changes in the Maine market, or insurers may rationally choose to wait for experience to develop in a new market before investing heavily.

As a result, in 1993 Maine must be prepared to provide some alternative to voluntary insurance company coverage for at least a large portion of the market -- possibly as much as \$200-\$250 million of premium and 24,000 employers (the current pool size). The current residual market cannot be relied on for coverage for those policies, since by all accounts its structure is not sustainable past the end of 1992. It is then clear that some new insurance entity must be created to cover these residual market policies, at least for a transitional period.

¹⁰ See Ian Ayres & John Braithwaite, Partial-Industry Regulation: A Monopsony Standard for Consumer Protection, 80 Cal. L. Rev. 13 (1992).

A decision to create a new competitive state fund in Maine would require choosing between two options. First, a state fund could be designed to operate like a competitive private insurance company, simply with different management (as Michigan has chosen to do). In that case, another residual market structure would need to be created. The Michigan residual market system would not be transferable to the current Maine market, at least initially, because the residual market would be too large for private insurers to be willing to bear. A state fund could be set up to insure a portion of the market (but not the whole market) in the hope that in the future when the voluntary market became larger, this state fund would help to keep the costs down. However, this state fund would not solve the insurance problems faced by most commercially insured Maine businesses in the near future, and its long-run success would depend on successful restructuring of the residual market.

The second option would be to design the state fund so that it could absorb the current residual market in 1993. Although this option would require a somewhat different structure than the usual competitive state fund in order to be successful in the unique conditions of the Maine market, this option has the most potential for achieving the cost-reducing goals of a competitive state fund in the near future.

In order to understand how the residual market could be restructured in order to serve as a competitive fund, it is necessary to understand the failings of the past residual markets. To a large extent, the recent Maine residual markets have functioned as "anti-competitive" state funds. Maine has had two state-mandated, government-structured insurance funds: the residual market pool for policies written in 1986-1988, and the current residual market pool for policies written after 1988. The current pool is financed not by insurance company capital, but instead is supported only by rates and employer surcharges -- and potential insurer assessments.

As discussed above, those residual market pools were structured in such a way that they encouraged inefficient servicing and high claims costs because those who managed and serviced the market had little or no direct responsibility for losses. This problem was most egregious under Maine's unique and disastrous Fresh Start law. The high costs and greater inefficiencies of the residual market have functioned as a lowest common denominator -- a benchmark of inefficiency -- that has raised rates marketwide. And, in a kind of a vicious circle, the fear of liability for these excessive residual market costs has worked to prevent expanded voluntary market competition.

Moreover, residual market rates have been set explicitly to prevent any competition with the voluntary market. Under current ratemaking procedures, rates for all policies in both the

residual or voluntary market are based on statewide experience data that includes high residual market losses; these rates are further increased to allow for the profit that insurers would earn if the policies were written voluntarily. Yet because insurers have provided no underwriting capital for the residual market, Maine law prohibits them from receiving any underwriting surplus (profit).¹¹

If residual market rates were lowered to eliminate this artificial profit provision in recognition of the actual expected costs of writing in the residual market, the NCCI and the Bureau of Insurance have estimated that residual market rates would be lower than voluntary rates.¹² Lower residual market rates would put the voluntary market at a competitive disadvantage, unless voluntary market efficiency improved enough to offset its higher capital costs. In an (as yet unsuccessful) attempt to prop up the voluntary market, the Bureau of Insurance has therefore raised residual market rates to an artificially high level in order to protect the voluntary market from competition.¹³ The Bureau of Insurance may assume that insurers prefer to withdraw from the market rather than to attempt to compete with the lower-cost residual market through improved efficiency in voluntary underwriting. If so, then without any viable alternative to the private insurance market employers will have no choice but to pay high residual market rates.

Yet the self-insured experience indicates that efficiency improvements leading to rate reductions may be an option for insuring policies currently in the residual market. The steep financing requirements and transaction costs for entry into the self-insurance market have in many ways operated as a competitive

¹¹24-A M.R.S.A. § 2367.

¹² In normal markets found in other states, residual market costs are assumed to be higher than voluntary market costs. The reason for the bizarre result in the Maine market is due to Maine's unusually large residual market (the residual market is virtually the whole market, rather than the costliest part of the market) combined with the Fresh Start law that shifts capital costs for the residual market to employers (eliminating the need for compensating insurers for capital costs).

¹³ In theory, if these rates are higher than actual costs, Fresh Start will require the surplus to be returned to employers. In practice, since there have been few restraints on residual market costs, the extra cushion provided by these apparently excessive rates may have simply provided a further incentive to allow inefficient servicing and claims management -- which in turn has used up any surplus that might normally have accumulated.

disadvantage for that market. Nevertheless, many self-insurers' superior attention to loss control and claims management have been substantial enough to overcome those barriers, providing a less costly alternative for a large portion of the market. This self-insurance market cannot act as a competitive option for many small employers, however, because of financial requirements and the complexities of organizing group self-insurance systems.

It appears that many of Maine's employers will have to remain in the residual market for the near future -- and that this residual market will need to be restructured beginning in 1993 to remain viable. But this crisis presents an opportunity that could result in substantial cost savings for those residual market employers (primarily small businesses) beyond any benefit reforms. We believe that a central goal of any residual market restructuring should be to find ways of making that market as efficient as possible so that it provides a competitive benchmark for the rest of the market -- just as competitive state funds do in other states.¹⁴ Otherwise, the residual market will continue to keep the whole market uncompetitive. In the Maine market, the self-insurance model provides important evidence of the kinds of restructuring that might work to make the residual market more competitive.

Of course, if the goal is to restructure the residual market so that it works as an effective insurance option, we must reverse the policies designed to discourage this market.¹⁵ If this market is able to save money over the long run compared to the voluntary market, then it is in employers' interests to remain in the market. It is probable that if a stable, healthy residual market existed and was able to lower rates and accumulate a surplus, then insurance companies would be more willing to invest the money and effort necessary to successfully compete with that market. The ideal would be to end up with a larger, efficient voluntary market and a smaller, but still viable residual market that provides a vigorous competitive check on the private insurance market.

2. Funding Concerns

A major concern about a new state-created insurance entity designed to compete in the private insurance market is funding, and the danger of taxpayer liability for future deficits. We

¹⁴ A competitive state fund that acted as a purely voluntary insurer (rather than the insurer of last resort) could exist in addition to a competitive residual market entity as an extra check on the market.

¹⁵ Ironically, the Fresh Start provisions designed to weaken the residual market have instead ended up fostering its growth.

agree that careful attention must be paid to designing a system that will avoid running up the kinds of deficits feared possible in the current residual market. The danger is real that such unfunded deficits run the risk of creating political pressure for a taxpayer bailout, regardless of legal attempts to insulate a state-established insurance fund from the general fund.

Nonetheless, this danger is no greater for an entity labelled a "competitive state fund" than for the current state-mandated, government-structured residual market pool. Indeed past experience (Chrysler, S&L disaster) shows that political pressure can force taxpayer bailouts of even private business, when the economic impact of failure is severe.

The best protection for taxpayers (and ratepayers) is to ensure that the residual market or any other state-established insurance source is carefully structured and monitored to ensure efficient, responsible management. It is imperative that the state act quickly and aggressively to improve the management and regulation of the current residual market system. If the threatened deficits become a reality, the state will face a serious problem -- particularly since some insurers are disputing the legal status of the assessment allocation rules and since there may be gaps or ambiguities in the Fresh Start law about responsibility for some portions of pool deficits.¹⁶

Another criticism of competitive state fund proposals is that government may sometimes be less efficient than the private sector. In fact, the state's self-insurance fund is one that may be particularly inefficient because (like the current commercially insured market) its structure lacks financial incentives for controlling costs through improved efficiency. But state involvement in providing workers' comp insurance in Maine is unavoidable, at least in the near future, given the large size of Maine's residual market. We agree that simply creating a new fund with state involvement is in itself no guarantee of improved competition. State involvement in any new fund must provide a means for employers and workers to be accountable for costs and to work together to manage costs.

The problem of funding has been a major stumbling block for past competitive state fund proposals in Maine. Most state funds were established on a smaller scale in the early 1900's when the workers' comp system was just beginning; other states that have more recently started up competitive funds have not had to cope with taking over a large residual market. Most state funds contemplate a self-supporting fund (separate from the state's General Fund) capitalized with funds appropriated or loaned from

¹⁶ See Public Advocate Brief, Workers' Compensation 1992 Rate Filing, Docket No. INS-91-66 (April 10, 1992) pp. 97-98.

the state General Fund or from a state bond issue. Private insurance companies general use a premium to surplus (capital) ratio of between 2-to-1 and 3.5-to-1 to ensure solvency. To realistically start a state fund in this manner in Maine, the fund would need to begin on a small scale, and some other funding mechanism would need to be used to insure the large residual market at least during a transition period.

But the funding problem can be resolved by using a different financing mechanism that will have the added benefit of improving incentives for cost reduction. Full up-front capitalization is not always necessary when employers self-insure. The current residual market pool was established in 1988 to reinsure about \$250 million in premium without any capitalization from insurers or employers. The current pool relies solely on employer surcharges (and potential insurer assessments) for funding deficits. In other words, the current pool is to a large degree self-insured by employers -- except that employers have the liability of self-insurance without any of the advantages of self-insurance, since employers have little control over costs.

Although we don't recommend the current method of relying entirely on future surcharges for funding, the best funding option for a new insurance entity would be to use an improved form of self-insurance. This form of financing would allow a new fund to be established in 1993 that could be large enough to provide coverage for all residual market employers. A guaranty fund mechanism should be added to as an extra layer of protection -- just as guaranty funds provide additional back-up in the voluntary market and in the self-insurance market.

Most important, it is essential that employer financing be accompanied by direct employer management and active employer/employee involvement in cost control. This is the central flaw in the current residual market financing scheme -- and the central reason for the success of the self-insurance market. Employer financing combined with employer control and access to cost data would provide direct incentives to avoid the possible surcharges that threaten employers in the current pool.

E. EMPLOYER/EMPLOYEE-MANAGED MUTUAL POOLS (EMMPs)

After December 1992 there will be a substantial number of Maine employers who will not be able to obtain workers' compensation coverage either in the deregulated voluntary market or through self-insurance. To provide coverage for those employers, we recommend that legislation be enacted that will provide for the creation of a variety of different Employer/employee-managed Mutual Pools (EMMPs). The distinguishing aspect of these pools is that employers and employees should be given full management control over the

entities subject to regulation by the Superintendent of Insurance.

1. Organization

a. Division of Pools

Following the Mitchell-Kany recommendation, we recommend that all residual market employers be assigned by the Superintendent of Insurance to the Employer/employee-managed Mutual Pools. Several different methods of dividing employers into pools have been suggested and should be explored further: one possibility is to divide groups according to Department of Labor industry divisions; another possible basis for division might be geography. On the one hand, diversity of geography and industry within groups would promote financial stability. On the other hand, homogeneity of industry or geography might better facilitate coordination of safety programs or light duty pools. Another possibility would be for groups to be structured on a heterogenous basis for financial and ratemaking purposes, with subcommittees on safety planning for different industry groupings within the larger group.

Each EMMP should have its own governing body of employers and employees. The inclusion of employees should help to foster an atmosphere of labor/management cooperation, and should help to encourage employees as well as employers to take responsibility for reducing claims costs. Employee cooperation and expertise is central to implementing effective safety and return-to-work programs and to preventing fraud.

The employer/employee board shall be authorized to collect premium, to hire its own management, to invest premium for the purposes of earning investment income to take bids from and contract with servicing companies, to require safety plans and to mandate safety measures from each employer. Like a self-insurance group, each pool will share responsibilities for deficits and share any distribution of surplus.

b. Public Access

Although the EMMPs adopt some of the characteristics of self-insurance groups, a major difference is that the EMMPs (and the High Cost Pool) are open to all employers who fall within the designated divisions. In other words, these pools have an "obligation to serve" similar to public utilities. As such, they should be considered public entities for certain purposes, subject to open meeting requirements and freedom of information rules -- with protections for confidential, claim-specific

information. Access to data and board meetings should help prevent these groups from being inappropriately controlled by any one narrow interest, and should help expose mismanagement in time to correct it.

c. Emphasis on Safety

To ensure that the Employer/employee-managed Mutual Pools will ultimately be able to reduce their insurance rates, each pool should require as a condition of membership that each business establish a workplace safety committee composed of employers and employees. To ensure that the safety committee is effective in implementing safety measures, it should be required to submit the minutes of its monthly meetings to the EMMP governing board.

To provide a further incentive towards creating safe workplaces, we also recommend that the experience modification factor for each employer be based on a combination of the employers' loss-ratio and the results of a EMMP-certified safety inspection.

d. Number of Pools

The Mitchell-Kany proposal suggested the creation of eight (8) pools. The Council of Self-Insurers' proposal called for twenty-four (24) groups. There are competing concerns here in deciding what the appropriate number of groups should be. On the one hand, smaller groups appear to make more sense because the underlying goal is to create an entity similar to a self-insurance group that will enable employers to control workers' compensation costs by mandating improved safety measures and coordinating return-to-work opportunities.

On the other hand, the urgency of the present situation appears to call for larger groups. Unless the employer community "gets religion," we wonder whether there will be enough time -- after the necessary legislation is enacted -- to create, certify, staff and organize 24 different employer/employee-managed pools. It is crucial that each group be closely monitored and assisted by the Bureau of Insurance in order to be sure that it is being well-managed and to be sure that any unforeseen problems are addressed quickly and thoroughly. No one predicted the unintended results of the 1988 Fresh Start law; there will likely be unintended effects from any new system as well. This time, we must be sure that problems are swiftly brought to light and resolved before becoming too large. Starting with a smaller number of pools might facilitate regulatory oversight.

Furthermore, even if there is sufficient time to create that number of pools, we wonder if they will be small enough to be

effective. There are approximately 24,000 employers in the residual market, representing approximately \$250 million worth of premium. Will a pool that consists of 1,000 employers be able to provide the administrative detail and management expertise necessary to make sure that each member adopts a safety program and participate actively in return-to-work efforts?

Right now we do not have a ready answer to the question of how many EMMPs should be created. We need to gather more information by talking with managers at the third-party administrators that have experience in working with large, heterogeneous self-insurance groups.

2. Servicing

Under the existing residual market system, servicing carriers are compensated through a 25.6% servicing fee. There are two problems with that method of compensation. First, it provides the wrong incentives for good claims management. That is, because the liability for underwriting losses has been shifted to the residual market, the servicing carriers have no incentive to make sure that their safety education, claims adjusting and loss control will be effective in reducing losses. Instead, the incentive is to reduce their servicing expenses: the less the carriers spend, the more money they can keep.

A second problem with the servicing fee structure is that the current 25.6% fee overcompensates the carriers for their work.

To remedy those problems, we recommend that each employer/employee-managed pool have the authority to select its own servicing entity (or entities) after putting that servicing work out to competitive bid. Furthermore, to ensure that each servicing entity has incentives to reduce losses, a statutory requirement could require adjustment of the servicing fee paid according to the extent to which each servicing entity has actually been successful in reducing the loss ratios of the pool members.

In order for this servicing structure to work properly, we recommend that the state make a long-term commitment to allowing servicing by non-carrier entities. The law should clearly specify that TPA's are allowed to service the EMMPs. There are a number of third-party administrators (TPA's) that would be interested in taking on the additional servicing work. However, those companies will have to invest substantial amounts of capital in order to develop the capacity necessary to service the large numbers of employers covered by the employer/employee-managed pools. Those TPA's will make those investments only if they are convinced that the opportunity to provide servicing to the Employer/employee-managed Mutual Pools is not a short-term

one.

The Commission should also recognize that the three major carriers now servicing the residual market already have a substantial investment in the equipment, buildings and personnel necessary to provide service to large portions of the Maine market. Our guess is that, if employer/employee-managed pools are created, those carriers are likely to take advantage of their current position and submit bids to provide servicing to those newly created groups. Our hope is that the threat of competition from third-party administrators will force the carriers to improve the claims handling and loss control services that they supply to employers.

3. Employers' Guaranty Fund

An Employers' Insurance Guarantee Fund should be created to provide protection against the possible insolvency of any of the employer/employee-managed groups or the High Cost Pool. The Guarantee Fund should be funded to a predetermined level by a premium tax or assessment levied against employers in the High Cost Pool and the Employer/employee-managed Mutual Pools. The possibility of requiring some small assessment against insurers (or self-insurers) as back-up support should be explored further. There are advantages to keeping each market separate and self-sufficient to prevent destabilizing the competitive or self-insurance markets. On the other hand, it is standard practice in other states with normal residual markets for voluntary market insurers to have some residual market responsibility. Insurance companies and self-insurers benefit from having a "residual market" to absorb any policies they do not want. If the portion of the market in the Employer/employee-managed Mutual Pools were to become relatively small, it might be particularly appropriate to broaden the funding base of the Employers' Guaranty Fund in order to ensure financial stability.

The Guarantee Fund should be managed by a governing board appointed by the Superintendent of Insurance and should primarily consist of employers and employees insured through the EMMPs. The board of the Guarantee Fund should be responsible for filing for any increases in the insurance rates paid by employers in the Employer/employee-managed Mutual Pools or in the High Cost Pool. That board should also have responsibility for making a filing to the Superintendent of Insurance requesting, if necessary, any retroactive surcharges needed to fund any of the pools.

4. High Cost Pool

A High Cost Pool, similar to the existing Accident Prevention Account, should be created. The High Cost Pool should be composed of all employers that have a loss-ratio greater than 1.50 or that fail to meet the safety requirements of the

employer/employee-managed groups.

A number of avenues should be explored to ensure that the employers in the High Cost Pool are closely monitored and held directly responsible for their losses. For instance, a requirement might be imposed that employers in that Pool should pay their insurance on the basis of a retrospective rating plan under which the employer's final premium amount would be based on its actual loss experience during the policy period. In other words, the employer would pay a basic premium up front and then be required to pay a final premium after the extent of its actual losses for that policy period have been determined.

Whatever rate mechanism is used, a board of non-High Cost Pool employers appointed by the Employer Guaranty Fund should closely supervise the employers in that Pool (by mandating safety measures and return-to-work policies) with the goal of getting each employer out of the High Cost Pool within a year of entry.

As a last resort, employers in the High Cost Pool that repeatedly fail to comply with certain safety or return-to-work plans should be penalized by termination of workers' compensation coverage. Provisions for imposing such penalties, and procedures for review should be developed and should be based on recommendations of the Guaranty Fund board, subject to approval by the Superintendent.

Because the EMMP members will have no choice but to obtain their insurance from those pools, we recommend that the Superintendent of Insurance continue to set rates for the employers in that market. We make the same recommendation for the rates to be paid in the High Risk Pool.

5. Ratesetting

Setting rates for the Employer/employee-managed Mutual Pools will involve a two-step process. First, the Superintendent should determine rates based on the combined experience of the pools. Then the Superintendent should calculate the manual rates that are to be paid by the employers in each pool by adjusting those combined rates by an experience factor that has been determined for each individual pool. That two-step process is necessary because it would be too cumbersome a procedure to require the Superintendent to determine from scratch a different set of manual rates for each pool. We also have questions about whether the data derived from the employers in one pool will provide a sufficient sample on which to make rates.

To determine insurance premiums, insurance carriers currently divide job activities into approximately 600 different job classifications based on the principal duties that make up each different type of job. Rates -- commonly referred to as

"manual rates" -- are set for each separate classification. To determine the premium for an individual employer, the employer's estimated payroll in each classification is then multiplied by the manual rate that the Superintendent has set for that classification. We recommend the two-step ratesetting procedure described above so that the Superintendent will not be required to convene separate rate cases to determine a separate set of manual rates for each EMMP. At the same time, the two-step procedure will mean that premiums are not set in such a way that they reflect only the average costs experienced by all the pools. Instead the premiums charged by each pool should reflect the efficiency with which it is adjusting claims and reducing losses.

We anticipate that in a few years, as a result of differing experience, there may be significant disparity between the premiums set for the different pools. That possibility raises some concerns about dividing the pools along geographic lines. If the premiums became too high in one region, the effect would be to harm business and to deter economic development in that region.

The possibility that the premiums for the different pools may vary is also a reason to bar transfers by employers from one pool to another. Once an employer is a member of a particular employer/employee-managed group, it should be permitted to transfer only to the High Cost Pool, the voluntary market or to self-insurance.

6. Monitoring Pool Size

The Commission should also consider establishing some kind of protection against the possible harmful effect of an employer exodus from a pool. Employers with good accident records eventually may opt to move to the voluntary market or to become self-insured. Such an exodus may result in an adverse selection of risks. As each pool gets smaller, it is at greater risk of being burdened or destabilized by members with relatively worse experience. To protect the financial stability of the pools, the Superintendent should have the authority to approve the mergers of smaller pools.

Of course, as is the case now, each employer that leaves an EMMP or the High Cost Pool will retain its liability to pay its share of any deficit that might exist for the policy periods during which it was insured by those pools.

7. Data Collection

Presently the NCCI is the principal entity responsible for collecting premium, loss and expense data from the voluntary and residual markets. It collects that data from its member carriers. Generally that data is used for three purposes: (1) to

calculate the experience modification factor for each employer; (2) to provide a basis for the carriers' requests for increased rates; and (3) to provide a basis for determining whether employer should be required to pay a "fresh start" surcharge.¹⁷

Under the market structure being suggested here, the EMMPs will serve as a competitive alternative to the insurers that operate in the residual market. Because the NCCI is the agent of those carriers and will continue to be an effective advocate for their interests, it should not be the entity that has the responsibility for collecting premium, loss and expense data from those pools. Therefore, we recommend that the board of the Employers' Guarantee Fund be assigned responsibility for collecting that data. Furthermore, to create trust and confidence in the mechanism that is used to set rates for the pools, we recommend that employers and employees have access to the aggregate data collected from each pool. As is the case under present law, information in individual claim files should be kept confidential.

¹⁷ 24-A M.R.S.A. § 2372 requires that the carriers report certain data to the Superintendent of Insurance. However, under present requirements, the data collected under that provision is not sufficient to support a rate filing.

SUM: A win/win solution that promotes cooperation, not conflict

1. Insurance companies are better off:

- No longer subject to risk of assessments for residual market deficits.
- Free to participate as servicing agents for employer/employee managed pools.
- Free to write voluntary market policies at whatever rates are competitive, without regulatory constraints.

2. Employers are better off:

- Resolution of coverage crisis for residual market employers.
- Lower rates because employers are no longer required to pay rates that include profit (possible 7-8% premium savings).
- Lower rates from reduced servicing costs because of competitive servicing open to third party administrators (possible savings of 10%).
- Lower rates over long run because of increased incentives for better loss prevention and control.
- Greater access to and control of information relating to costs.
- Greater choice between voluntary market, employer/employee-managed pools, or smaller self-insurance groups.

3. Workers are better off:

- Reduced injuries and increased opportunities for return to work because employers/workers have direct responsibility and control over claims costs.
- More efficient claims processing.
- Resolution of coverage crisis.

III. RECOMMENDATIONS FOR EXISTING RESIDUAL MARKET POOL

In our brief in the most recent rate case, we made recommendations for addressing some of the problems in the existing residual market pool, which may be accumulating significant unfunded deficits for some policy years from 1988 to the present. As we have explained, we believe that poor servicing and inadequate management is a major cause of these residual market deficits. The deficit projections offered by the NCCI in the most recent rate proceedings include estimates of future costs. By taking immediate steps to improve the residual market management, some of these future costs may be avoided. For example, pool funds (totalling as much as \$500 million) are now being invested only in short-term instruments earning only 4.55% on average. If these funds were invested in instruments with maturities that more closely matched the claims payout pattern, it is possible that millions of dollars in deficits could be avoided.

Our recommendations include restructuring the residual market governing board to include at least 50% employer representation, since employers are responsible for at least 50% of residual market liability. We recommend an investigation of the questions about data inaccuracies, particularly inaccurate loss data resulting from American Fidelity/Northern MGA servicing problems. We also recommend reducing and restructuring the servicing fee to account for performance as measured by loss ratios, and allowing third party administrators to bid directly and competitively for servicing. Finally, we recommend that insurer assessments not be delayed, and that penalties for poor servicing be assessed.

In the course of setting up the employer/employee-managed mutual pools, the Blue Ribbon Commission should not attempt to take over, or borrow, monies from the existing residual market pool. As required by statute (24-A M.R.S.A. § 2367), those funds have been collected and set aside to cover the liability of Maine employers for the residual market losses and expenses for policy-years 1988 through 1992. If those monies were to be used either to administer of fund any newly created residual market entity, Maine employers would be required, under the "Fresh Start" mechanism, to replace those monies by paying retroactive premium surcharges. Furthermore, any increase in insurer liabilities in the existing residual market would risk lawsuits based on the Takings Clause of the U.S. Constitution.

ATTACHMENT #1

Mitchell-Kany Ad Hoc Group on Residual Market Coverage

As each of you is aware, Maine's major workers' compensation carriers have indicated that, unless they are protected against the "Fresh Start" assessment, they will not provide coverage in the residual market after December 1992. At the request of Representative Mitchell and Senator Kany, we have been meeting each week since the beginning of May with an ad hoc group called together by those two legislators to consider how insurance coverage might be provided when the carriers leave. At various meetings, the group has included the following people:

Bob Hodges	Workers' Compensation
Sara Burns	Group of Sixteen
Ned McCann	

Senator Judy Kany
Rep. Elizabeth Mitchell

Jack Dexter	ME Chamber of Commerce
Patty Aho	ME Merchants Ass'n (self-insured)
John Melrose	Council of Self-Insurers
David Clough	Nat'l Fed. of Independent Businesses
Ralph Coffman	Injured Workers

Dick Johnson	Bureau of Insurance
Abby Harkins	Governor's Office
Bill Black	Public Advocate
Martha McCluskey	Public Advocate

John Bowman, of Saunders Brothers and Charles Soltan, representing Hanover Insurance, have also attended the meetings. We understand that Senator Kany and Representative Mitchell have invited one or two representatives of third-party administrators to the next meeting.

The ad hoc group will continue to meet during the summer with the goal of designing a system that will provide workers' compensation coverage after December 1992 for those employers who are unable to obtain coverage outside the residual market. As the Mitchell-Kany group develops more detail to its package, it plans to stay in touch with the Blue Ribbon Commission and make suggestions about changes that we think will improve Maine's workers' compensation system.

**Remarks prepared for the
Maine Blue Ribbon Commission
on Workers' Compensation**

June 8, 1992

by

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Ed Welch was the Director of Michigan's Bureau of Workers' Disability Compensation from 1985 through 1990. Before that he was a claimants' attorney. He is now a member of the faculty of the School of Labor and Industrial Relations of Michigan State University.

Ed has written *Workers' Compensation in Michigan: Law and Practice*. He has also edited *Workers' Compensation Strategies for Lowering Costs and Reducing Workers' Suffering* and published many articles related to workers' compensation. He publishes a newsletter *Ed Welch on Workers' Compensation* in both a Michigan and National Edition.

He was elected a charter member for workers' compensation of the National Academy of Social Insurance. He was the Vice President of the International Association of Industrial Accident Boards and Commissions. He serves as the secretary to a Labor/Management Discussion Group on Workers' Compensation which is co-chaired by the National Association of Manufacturers and the AFL-CIO.

In 1990 he received the outstanding achievement award in workers' compensation which is presented annually by the National Association of Manufacturers, the Alliance of American Insurers and the American Insurance Association. (Not bad for a former claimants' attorney.)

I. Introduction

- A. "It wasn't my idea!"
- B. But it may be better than any of the alternatives.

II. A Few Words of Advice

- A. Build on the sense of cooperation that has developed (and expand it for implementation).
- B. Be patient.
- C. After all the legislative changes are made you must still solve the workers' compensation problem in the workplace.

III. Some prominent features of the Michigan system.

A. Wage-loss benefits

In general a worker receives benefits so long as he or she meets all four of the following criteria. The worker must:

1. Be "disabled"
2. Have a wage loss
3. Not have refused a reasonable offer of employment and
4. Not have established a wage earning capacity by successfully returning to work. (This criteria relates to individuals who have returned to work and then left.)

In theory, benefits can continue for the duration of the disability with an annual five percent reduction beginning at age 65. In practice the vast majority of all cases involve minor injuries with the individual returning to work in less than 90 days. In the more serious cases it very frequently happens that after a year or two the carrier (insurance company or self-insured employer) terminates benefits because it believes the worker has recovered or for other reasons. The worker then hires an attorney and applies for a hearing. The majority of these cases end in a "redemption" or lump sum settlement.

There are no permanent partial benefits. Scheduled benefits are limited to amputations and loss of sight.

B. Administration

The Michigan bureau does not ordinarily intervene in a case unless asked to do so by one of the parties. Unless there has been a previous hearing that resulted in an order to pay benefits, a carrier may terminate the payment of benefits at its discretion. Carriers claim that they do not do this without a good reason. Their reasoning is often challenged by workers and their attorneys.

The hearing procedure in Michigan is quite formal and delays in obtaining formal hearings are probably the most serious problem in the Michigan system at this time.

In recent years much emphasis has been placed on attempting to resolve disputes through informal mediation. I believe that this has been very helpful in certain types of cases. Many employers and insurers are quite pleased with it. Attorneys generally disparage it.

C. Attorney Fees

Defense attorneys are paid on a fee-for-service basis. Plaintiff attorneys are paid a contingent percentage fee which comes out of the worker's recovery. It is based only on the past due or "accrued" benefits that are paid. If there is a trial and order to pay, the fee is 30 percent. In a redemption the fee is 15 percent of the first \$25,000 and 10 percent of the balance.

D. Benefit Levels

The average weekly wage is the average of the highest 39 of the last 52 weeks. Benefits are 80 percent of the after-tax value of the average weekly wage (80 percent of the difference if there is a return to work at a lower wage).

The maximum is 90 percent of the state average weekly wage, \$441.00 per week for injuries in 1992. Except for loss of a limb, loss of sight and death, there is no minimum rate.

E. Insurance

Since 1983 Michigan has had a competitive market for workers' compensation insurance. It is sometimes called a "file and use" system. Carriers are free to set whatever rates they choose. There is a central data collection agency which gathers and shares data about losses. Each year the insurance commissioner is required to conduct an extensive review of the situation. So far he or she has concluded each time that there is extensive competition and that there has been no problem of insolvency resulting from this system. There is evidence that many employers do "shop around" to the extent they might and thus do not take advantage of the competitive situation.

The Accident Fund of Michigan writes about 20 percent of the premium. For almost fifteen years there has been an ongoing dispute as to whether the fund was and/or should be a state agency. During this period for most classifications the fund has had the lowest rates of all the major carriers. I believe the presence of a carrier which is striving to keep rates at a minimum has been an essential element in the success of competitive pricing in Michigan.

F. Self-Insurance

Between 40 and 45 percent of Michigan's benefits are paid by about 600 self-insured employers and 30 group self-insurance funds. I understand that we have been described as too "lenient" in approving self-insurance status. We never received that criticism while I was with the bureau. We were sometimes accused of being too strict but this usually came from employers we turned down.

There have been some insolvencies. Almost universally the workers involved have received benefits from bonds, letters of credit or the self-insurer's security fund.

G. Health Care Costs

Michigan has recently adopted a system to deal with increasing health care costs. It includes:

1. A fee schedule
2. Utilization review
3. A prohibition against balanced billing
4. Data collection and
5. A dispute resolution process.

Many carriers are reporting substantial savings as the result of this approach.

IV. Some Comparisons

A. Population

Maine	1,227,928
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Michigan	9,295,297
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B. Frequency of injuries

There seems to be good evidence, although not adjusted for industry type, that injuries are more frequent in Maine than Michigan. Based on substantial research the NCCI has consistently taken the position that when benefits increase, the frequency of claims will increase. Presumably we can also assume that if benefits were to decrease, the frequency would also decrease.

Even considering such an adjustment, it appears that some Maine employers have a problem with safety. This is a situation that must be dealt with regardless of what is done about the law.

C. Severity of injuries

Apparently there are some who claim that injuries tend to be more severe in Maine. I do not know what data they are relying on. I do not believe that NCCI data on "cost" is a good measure of "severity."

OSHA data would suggest that severity is only slightly higher in Maine.

	Lost Workday Cases per 100 Workers	Lost Workdays per 100 Workers	Lost Workdays per Case
Maine	7.0	173.6	24.8
Michigan	4.8	109.9	22.9

D. Other measures

I have attached a chapter from course materials that I use which includes several other comparisons.

CHAPTER 13, INTERSTATE COMPARISONS

Introduction

It is very common in workers' compensation to want to make comparisons between states. As discussed elsewhere, research in Michigan shows that there is as much, if not more, difference between employers within the same state as there is between different states. Too much emphasis on interstate differences can lead employers to ignore the ability that they have to influence their own workers' experience.

Nevertheless, because there is so much interest in the topic and because it is appropriate to look at interstate differences for the purpose of improving state systems if not for other purposes, this chapter will examine several ways of comparing states. It will look at comparisons based on cost, compliance with the recommendations, and benefit levels.

There are many other comparisons that might be appropriate such as the percentage of claims that result in disputes or how long it takes to resolve disputes. Unfortunately, there is a dearth of good data about workers' compensation which is comparable from state to state. There is some movement by the IAIABC and others to improve this situation, but at the present time there are very few areas in which we can make reliable comparisons.

Costs

The data available allow us to look at costs in two different ways: benefit costs and premium costs. **Benefits costs** measure the total of all benefits paid to workers. **Premium costs** measure the insurance premiums paid by employers. Premium costs include only the costs of insured employers. The costs of self-insureds are not included.

Benefit Costs

Table 1 lists estimates of the dollars paid in workers' compensation benefits for every \$100 of payroll in each state. The figures are for 1988, the latest year for which information is available.

This data is gathered by the Social Security Administration. It is further analyzed and published in this form by the National Foundation for Unemployment Compensation & Workers' Compensation. The foundation was established by

Benefit Costs		
Per \$100 of Payroll, 1988		
1	Montana	3.87
2	West Virginia	3.64
3	Maine	3.46
4	Louisiana	2.86
5	Oregon	2.78
6	Texas	2.76
7	Alaska	2.62
8	Nevada	2.47
9	Rhode Island	2.36
10	New Mexico	2.17
11	Colorado	1.98
12	Washington	1.97
13	Oklahoma	1.94
14	Ohio	1.88
15	Florida	1.83
16	Wyoming	1.79
17	California	1.74
18	Hawaii	1.69
19	Idaho	1.68
20	Pennsylvania	1.57
21	Arkansas	1.52
22	Kentucky	1.51
23	Alabama	1.49
24	New Hampshire	1.48
25	Mississippi	1.43
26	Massachusetts	1.42
27	South Dakota	1.34
28	Minnesota	1.33
29	Connecticut	1.31
30	Arizona	1.29
31	North Dakota	1.28
32	Michigan	1.27
33	Georgia	1.27
34	Illinois	1.27
35	Tennessee	1.24
36	Kansas	1.21
37	Utah	1.10
38	Maryland	1.09
39	Wisconsin	1.04
40	South Carolina	1.03
41	Delaware	1.02
42	Missouri	1.00
43	Nebraska	0.97
44	Vermont	0.95
45	Iowa	0.94
46	New Jersey	0.81
47	Virginia	0.80
48	New York	0.74
49	North Carolina	0.69
50	DC	0.65
51	Indiana	0.64
AVERAGE		1.46

Table 1

UBA, a group in Washington that provides information to employers about unemployment and workers' compensation activities.

Premium Costs

Table 2 lists estimates of premium costs. This analysis was prepared by John F. Burton, Jr. and Timothy P. Schmidle and published in *John Burton's Workers' Compensation Monitor*. The analysis is more complicated than might be anticipated. As discussed elsewhere, insurance premiums are based on job classifications. This approach focuses on 44 common classifications which account for over 60 percent of payroll. Various adjustments are then made to standardize the measures across states.¹

The figures in the table represent the average cost of insurance for these 44 classifications in each state for 1988. The table also lists the percent change from 1978 to 1988. The information necessary to compile comparable data is available from only 46 states and the District of Columbia.

Compliance With the Recommendations of the National Commission

In 1972 a National Commission on State Workmen's [sic] Compensation Laws which had been appointed by President Nixon made a series of recommendations. Nineteen of these were deemed "essential." These 19 essential recommendations of the National Commission soon came to be recognized as a standard by which state workers' compensation laws could be measured.

Since 1972 the United States Department of Labor has monitored the compliance of the states with these recommendations. Their findings, as of January 1, 1991, are listed in Table 3. Figure A lists the recommendations. Some of the recommen-

States	1988 Costs		1978-1988 Change	
	Rank	Costs	Rank	Costs
Montana	1	4.201	1	199.2
California	2	3.075	26	44.0
Texas	3	3.042	11	73.5
New Mexico	4	2.898	2	101.1
Alaska	5	2.817	17	59.9
Hawaii	6	2.793	30	35.8
Maine	7	2.692	4	95.1
Florida	8	2.662	42	0.8
Rhode Island	9	2.512	5	92.8
Oregon	10	2.483	44	-14.9
DC	11	2.382	46	-32.0
Ohio	12	2.380	22	53.5
Minnesota	13	2.341	33	28.6
Connecticut	14	2.311	12	70.8
Oklahoma	15	2.179	24	50.7
Massachusetts	16	2.174	18	58.3
Colorado	17	2.166	9	79.0
New Hampshire	18	2.158	7	85.1
Idaho	19	1.973	23	53.3
Michigan	20	1.971	40	4.3
Pennsylvania	21	1.905	14	62.4
Louisiana	22	1.902	35	25.8
Illinois	23	1.838	31	33.0
Kentucky	24	1.803	32	30.5
Georgia	25	1.690	19	56.9
Arkansas	26	1.652	34	27.9
Arizona	27	1.648	47	-34.2
Alabama	28	1.620	6	89.5
Delaware	29	1.608	39	12.6
South Carolina	30	1.545	8	84.8
New York	31	1.532	43	-13.4
Wisconsin	32	1.500	3	99.5
Mississippi	33	1.449	15	60.6
New Jersey	34	1.399	45	-17.1
Vermont	35	1.351	20	54.4
Iowa	36	1.348	36	24.4
Maryland	37	1.310	41	3.8
South Dakota	38	1.293	21	53.6
Kansas	39	1.282	25	45.8
Tennessee	40	1.231	28	36.3
Missouri	41	1.228	13	65.9
Virginia	42	1.089	37	23.8
West Virginia	43	1.056	16	60.0
Nebraska	44	1.021	27	43.8
Utah	45	1.019	38	14.2
North Carolina	46	0.944	10	77.4
Indiana	47	0.654	29	36.3

Table 2

National Commission Recommendations

Rec No	Mich	Total States	Recommendation
2.1(a)	X	49	Coverage by workmen's compensation laws be compulsory.
2.1(b)		28	No waivers are permitted.
2.2		38	Employers not be exempted from coverage because of the number of employees.
2.4		14	Farmworkers be covered on the same basis as all other employees.
2.5		1	Household workers and all casual workers be covered at least to the extent they are covered by Social Security.
2.6	X	32	Workmen's compensation coverage be mandatory for all government employees.
2.7		16	No exemptions for a class of employees, such as professional athletes or employees of charitable organizations.
2.11		27	An employer 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.
2.13	X	52	All States provide full coverage for work-related diseases.
3.7	X	50	Subject to the State's maximum weekly benefit, temporary total disability benefits be at least 66 2/3 percent of the worker's gross weekly wage.
3.8		32	The maximum weekly benefit for temporary total disability be at least 100 percent of the State's average weekly wage.
3.11	X	52	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.
3.12	X	49	Subject to the State's maximum weekly benefit, permanent total disability benefits be at least 66 2/3 percent of the worker's gross weekly wage.
3.15		30	The maximum benefit for permanent total disability be at least 100 percent of the State's average weekly wage.
3.17	X	42	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.
3.21	X	32	Subject to the State's maximum weekly benefit, death benefits be at least 66 2/3 percent of the worker's gross weekly wage.
3.23		26	The maximum weekly death benefit be at least 100 percent of the State's average weekly wage.
3.25(a)		35	Death benefits be paid to a widow or widower for life or until remarriage, and
3.25(b)		23	in the event of remarriage, two years' benefits be paid in a lump sum to the widow or widower.
3.25(c)	X	47	Benefits for a dependent child be continued at least until the child reaches 18, or beyond such age if actually dependent, or
3.25(d)		14	at least until age 25 if enrolled as a full-time student in any accredited educational institution.
4.2	X	50	There be no statutory limits of time or dollar amount for medical care or physical rehabilitation services.
4.4	X	46	The right to medical and physical rehabilitation benefits not terminate by the mere passage of time.

Source: U.S. Dept. of Labor

Figure A

**Compliance with the
Recommendations of the
National Commission
1991**

1	New Hampshire	18.75
2	Dist Columbia	15.75
3	Iowa	15.50
4	Ohio	15.50
5	Vermont	15.25
6	Wisconsin	15.00
7	Illinois	15.00
8	Hawaii	14.75
9	West Virginia	14.75
10	Nevada	14.75
11	Missouri	14.75
12	Maryland	14.25
13	Kentucky	14.25
14	Alaska	14.25
15	Connecticut	14.00
16	Maine	14.00
17	Pennsylvania	13.75
18	North Carolina	13.75
19	North Dakota	13.50
20	Oregon	13.50
21	Rhode Island	13.50
22	Nebraska	13.50
23	Colorado	13.25
24	South Dakota	13.25
25	Massachusetts	13.25
26	Alabama	13.00
27	Texas	12.50
28	Washington	12.50
29	Minnesota	12.50
30	Delaware	12.00
31	Florida	12.00
32	Kansas	12.00
33	Arizona	12.00
34	Utah	12.00
35	Montana	11.75
36	Virginia	11.75
37	South Carolina	11.50
38	Indiana	11.50
39	Louisiana	11.25
40	California	11.00
41	Oklahoma	10.75
42	New York	10.75
43	New Mexico	10.00
44	New Jersey	10.00
45	Georgia	9.75
46	Michigan	9.75
47	Idaho	9.00
48	Tennessee	9.00
49	Arkansas	8.50
50	Wyoming	8.25
51	Mississippi	7.25
	AVERAGE	12.64

dations are broken down into subparts. The USDOL has always counted these as one half or one fourth of a recommendation. Thus a state's compliance may be a fraction.

Benefits

The first two tables in this chapter listed the costs to employers. Tables 4 and 5 examine the benefits paid to workers.² Because there is so much variation in the forms of compensation provided by the states, it is difficult to make exact comparisons. There are, however, a couple of measures that are readily available which can be used to give us a fair approximation of the relative generosity of state programs.

Table 4 lists the maximum benefit for temporary total disability, the type of benefit most frequently paid. It is listed in terms of dollars and as a percentage of the state's average weekly wage. Table 5 lists the amount of scheduled benefits paid for the loss of an arm at the shoulder. It should be noted that a few states might pay wage-loss benefits in addition to this benefit.

¹ John F. Burton, Jr. and Timothy P. Schmidle, "Workers' Compensation Insurance Costs: National Averages and Interstate Differences, *John Burton's Workers' Compensation Monitor*, November/December 1990, pp. 1-15.

² *State Workers' Compensation Laws*, Branch of Workers' Compensation Studies, U.S. Department of Labor, January 1992.

Table 3

**Benefits for Temporary Total Disability
Provided for by Workers' Comp.
Statutes in the U.S. - 1992**

	Jurisdiction	Maximum Payments	Percentage of SAWW
1	Connecticut	737.00	150
2	Iowa	733.00	200
3	Alaska	700.00	N/A
4	Illinois	655.73	133 1/3
5	New Hampshire	633.00	150
6	Dist of Columbia	613.09	100
7	Vermont	592.00	150
8	Maine	518.42	166 2/3
9	Massachusetts	515.52	100
10	Maryland	475.00	100
11	Pennsylvania	455.00	100
12	Wisconsin	450.00	100
13	Ohio	443.00	100
14	Minnesota	443.00	100
15	Michigan	441.00	90
16	Texas	438.00	100
17	Hawaii	437.00	100
18	Washington	434.13	100
19	Missouri	431.26	105
20	Oregon	429.71	100
21	North Carolina	429.00	110
22	Rhode Island	427.00	100
23	Nevada	421.26	100
24	Virginia	418.00	100
25	New Jersey	409.00	75
26	Florida	409.00	100
27	Colorado	395.71	91
28	West Virginia	394.02	100
29	Wyoming	392.00	100
30	Alabama	385.00	100
31	Kentucky	380.00	100
32	South Carolina	379.82	100
33	Utah	378.00	100
34	New York	350.00	N/A
35	California	336.00	66 2/3
36	Montana	336.00	100
37	North Dakota	334.00	100
38	Indiana	328.00	N/A
39	Idaho	324.00	90
40	Arizona	323.08	N/A
41	Delaware	312.39	66 2/3
42	South Dakota	308.00	100
43	New Mexico	307.30	85
44	Louisiana	295.00	75
45	Tennessee	294.00	N/A
46	Kansas	289.00	75
47	Nebraska	265.00	N/A
48	Oklahoma	246.00	66 2/3
49	Arkansas	241.93	70
50	Mississippi	227.18	66 2/3
51	Georgia	225.00	N/A

Table 4

**Maximum Benefit Payments
for Loss of Arm at Shoulder
1992**

	Jurisdiction	Benefit
1	Illinois	196,719
2	Dist of Columbia	191,284
3	Pennsylvania	186,550
4	Iowa	168,500
5	Connecticut	153,192
6	Maryland	142,800
7	Hawaii	136,344
8	New Hampshire	132,930
9	New Jersey	128,700
10	Vermont	127,280
11	Michigan	118,629
12	New York	109,200
13	North Carolina	102,960
14	Ohio	99,675
15	Arizona	84,001
16	Virginia	83,600
17	South Carolina	83,560
18	North Dakota	83,500
19	Delaware	78,097
20	Wisconsin	72,000
21	South Dakota	61,600
22	New Mexico	61,460
23	Texas	61,400
24	Kansas	60,690
25	Nebraska	59,625
26	Idaho	59,400
27	Louisiana	59,000
28	Tennessee	58,800
29	Washington	54,000
30	Georgia	50,625
31	Missouri	49,548
32	Alabama	48,840
33	Utah	47,124
34	Oklahoma	46,250
35	Mississippi	45,436
36	Wyoming	39,200
37	Arkansas	38,105
38	Colorado	31,200
39	Indiana	31,000
40	Rhode Island	28,080
41	Massachusetts	22,167
42	West Virginia	N/A
43	Alaska	N/A
44	California	N/A
45	Minnesota	N/A
46	Montana	N/A
47	Nevada	N/A
48	Oregon	N/A
49	Florida	N/A
50	Kentucky	N/A
51	Maine	N/A

Table 5

The Maryland Insurance Group

Legal Division

FACSIMILE COVER SHEET

DATE: June 11, 1992

TO: Michelle Bushey, Blue Ribbon Commission

FAX NO.: (207) 780-4913

FROM: Grover E. Czech

FAX NO.: (410) 338-9750

PHONE NO.: (410) 338-9681

Number of Pages including This Page: 4

If you fail to receive all of the pages, please contact Val Wisniewski at (410) 338-9751

MESSAGE:

Per our telephone conversation today, attached you will find The Maryland Insurance Group's Position Statement on workers' compensation reform in the State of Maine.

*Called
6/12*

3910 Keswick Road, Baltimore, MD 21211

Maryland Casualty Company
National Standard Insurance Company

Assurance Company of America
Maryland Insurance Company

Maryland Indemnity
Maryland Indemnity Company

Northern Insurance Company of New York
Valent Insurance Company

POSITION STATEMENT
OF
THE MARYLAND INSURANCE GROUP
ON
WORKERS' COMPENSATION REFORM
IN THE STATE OF
MAINE

The Maryland Insurance Group, through Maine Bonding & Casualty Company (chartered in 1893), has actively participated in the Maine market since 1926. Our Company has 160 employees based in Maine, and over 20 employees in the Home Office service our Maine book of business. In addition, we have many independent agents residing in the State.

We have remained in the Maine workers' compensation marketplace despite great adversity over the past 10 years while most other carriers have withdrawn. As a result, we are one of three remaining carriers active in the workers' compensation market and have an overall market share of almost 20%.

There are a number of major problems that continue to trouble the workers' compensation system in Maine. We believe that these problems must be resolved in 1992 if the private insurance market is to survive in the State. A significant rate increase is needed to achieve rate adequacy. Regrettably, the Legislature, by law, recently directed the Superintendent of Insurance to delay consideration of the pending 32% rate increase until November of this year with an effective date of August 1, 1992. This delay will lead to further losses in both the voluntary and residual markets and create greater uncertainty as to future prospects for rate adequacy. In addition, our Company faces residual market deficits for 1989, 1990, and 1991 in the millions of dollars.

The State has not allowed us to collect enough premium to pay for these losses which will have to be paid out of surplus earned from other sources. We are also facing a baseless anti-trust suit instigated by a group of out-of-state attorneys and, even if the suit is dismissed as being without merit, we will have incurred over a million dollars in defense costs. Finally, a lawsuit has been filed against the Insurance Department's 1991 residual market regulation which creates stability and predictability in residual market assessments for 1992 and into the future. If this regulation is revised or overturned, our exposure to assessments will increase considerably.

Given this ominous background, we believe there are actions that must be taken by the Maine Legislature to resolve these problems and to recreate a healthy competitive workers' compensation market in the State. Our recommendations to accomplish this are as follows:

I. ENACT COMPETITIVE RATING LEGISLATION

The insurance industry is not a monopoly similar to the power company and does not require monopoly regulation. There are at least three competing carriers and more carriers are likely to return to the market over time if they are allowed to establish

prices based upon competitive forces. The Maryland Insurance Group does not believe that the Maine workers' compensation marketplace can be effectively served under the current prior approval system.

II. THE WORKERS' COMPENSATION RESIDUAL MARKET MUST BE MADE SELF-SUPPORTING

Actions by the State Legislature and the Department of Insurance over the past several years have resulted in substantially inadequate rates in both the voluntary and residual markets. As a result, the workers' compensation pool has developed hundreds of millions of dollars in losses, a substantial part of which must be paid for by our Company. It is unfair and bad economic policy to require the seller of a product to subsidize its costs to its buyers. For The Maryland Insurance Group to effectively continue to serve the Maine workers' compensation market, these subsidies must end and the residual market be made self-supporting. This can be accomplished in one of two ways:

- a. If the workers' compensation pool is to continue, it should by law be made self-supporting on a year-to-year basis. An annual reconciliation system, through a surcharge on employers, should be instituted to accomplish this purpose. The surcharge must not be subject to prior approval and any overcharges or undercharges must be adjusted annually, or;
- b. The establishment of a competitive state fund would serve as both a competitive insurer and a market of last resort. This fund must be self-supporting and operate on a level playing field with insurers in the private market. The privately-run workers' compensation pool would be abolished at the time the competitive state fund begins operations and all pool business would be moved into the fund at that time. Prior to the start-up of the state fund, insurers should be given certain incentives to encourage them to take business out of the pool and write it in the voluntary market.

III. ENACT COST CONTAINMENT REFORMS

The cost of Maine workers' compensation is relatively high with regard to the cost of similar systems in other states and with regard to the ability of the Maine economy to afford such an expensive system. Additional reforms should be enacted to bring the cost of the Maine system in line with that of other states and to make it more affordable.

While the adoption of a competitive rating system and the creation of a self-supporting residual market will help improve market availability, the system will continue to have problems unless underlying costs are contained. In order to reduce the costs of the system, reforms should be adopted in the followings areas:

- a. Eliminate both the opportunity and incentive to litigate claims by simplifying the statute, use a predominant cause definition, cap permanent partial benefits

duration at 250-300 weeks, pay legal fees out of awards, limit lump sums, and tighten use of AMA guides in PPD cases.

- b. Restructure the current workers' compensation commission to reduce litigation and improve caseload management.
- c. Enact medical cost containment provisions by including an effective fee schedule and encouraging managed care arrangements.

IV. MICHIGAN SYSTEM - COMMENTS

We have met with the Maine Workers' Compensation Group and have learned of their support for the adoption of the Michigan workers' compensation law in the State of Maine. While we are very supportive of this cooperative effort between labor and management groups to bring about needed reform, we offer the following cautions:

1. Before any final judgment is made regarding the adoption of the Michigan law in Maine, the determination must be made as to the approximate cost of that system as it would operate in Maine. It is possible that the system could cost as much and maybe more than the present system.
2. As in any workers' compensation system, there is a great deal of settled case law in Maine interpreting the workers' compensation statute. The adoption of the Michigan system in Maine without adoption of interpretive Michigan case law, could result in years of litigation to establish new case law. Further, there is no guarantee that the Maine courts would interpret the law as it has been interpreted in Michigan.
3. The Michigan plan includes a competitive state fund and a privately-run workers' compensation pool. This system would not be acceptable to The Maryland Insurance Group in the State of Maine. We believe there should be only one residual market mechanism and that it should be fully self-supporting. Our preference at this time in Maine is the adoption of a competitive state fund that will serve as the market of last resort.

* * *

For further information, please contact Grover E. Czech, Vice President, Government and Industry Affairs at 410-338-9681.

June 2, 1992

The Maryland

Insurance Group

Legal Division

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June 2, 1992



Commercial Union Insurance Companies
One Beacon Street
Boston, Massachusetts 02108
Telephone: (617) 725-7700
Telex: 94 0184
FAX: (617) 725-6250

Robert C. Gowdy
Executive Vice President

June 24, 1992

Blue Ribbon Commission
University of Maine
School of Law
246 Deering Avenue
Portland, ME 04102

Attention: Ms. Michelle Bushey

Dear Ms. Bushey:

Attached are my remarks delivered at your hearing on June 19th.

Thank you again for the opportunity to meet with you.

Sincerely,


Robert C. Gowdy

RCG/lw
enclosure

TESTIMONY OF COMMERCIAL UNION
WORKERS' COMPENSATION BLUE RIBBON COMMISSION

JUNE 19, 1992

My name is Bob Gowdy and I hold the position of Executive Vice President for the Commercial Union Insurance Companies. I am the senior insurance officer for CU in the U.S. I'm also an actuary and prior to joining CU I was the CEO of the largest writer of workers' compensation in the Western United States. I am pleased to speak with you today on a subject of vital interest to Maine employers, employees and in fact all citizens of Maine. You might be interested to know that CU is the largest property and casualty insurer in Maine and one of only three companies still writing workers' compensation in the state. We trace our roots in Maine back to June of 1921. For the past 71 years we have provided Maine employers and employees with a responsible statewide market, not only for workers' compensation but for all lines of insurance. We employ 221 people in Maine located in 3 offices. We are represented by 185 agents throughout the state.

Maine is important to us, but as important as Maine is, we can no longer bear the financial burden of providing a workers' compensation market. The system is so out of balance, and has been out of balance for so long, that the private enterprise system of providing compensation benefits is about to collapse. Your commission, in our view, represents the one last hope of building a rational, viable system for the provision of benefits arising from industrial accidents.

Because of the limited time we had to prepare for this hearing, I can only touch on the highlights of what we feel is necessary to begin to balance the current system. If you are interested in pursuing any of our specific suggestions, we would be happy to prepare further detailed information for your review.

The first point that I want to make is that it is too late for incremental adjustments. Incremental adjustments have been made for nearly a decade; yet the crisis has continued to deepen. Maine is now truly at the end of the road. I doubt further timid steps will slow the movement of insurers who are abandoning the system. The costs that the private insurance system are no longer willing to bear will merely be passed on to others. Without private sector participants, those others will be the citizens of Maine. The principal objective must be to balance the needed benefits and the costs of providing them. In the long run, a realistic recognition of how the system is to be financed is as important as the decision about benefits. What cannot be financed cannot be spent. This point needs amplification. No objective observer can allege that insurers have made a profit on workers' compensation in Maine. CU certainly has not. Because we are profit driven, those losses must be recouped elsewhere. To put it simply, policyholders in other states have been subsidizing the workers' compensation system in Maine. This practice cannot continue. Put bluntly, policyholders and regulators in Idaho, California, Connecticut and elsewhere have no interest in propping up a failed Maine system. The unfunded costs of a non-functional system must be born, directly or indirectly, by Maine citizens in the future. I don't envy you your task, but I encourage you to grasp the nettle. Bold action is required of you. It is my understanding that the assigned risk pool for the 1988 policy year has run out of cash

and the accumulated deficit for all pool years since 1988 is \$500 million. This is a large deficit benefitting so few and again illustrates the seriousness of the problem. Let me now turn to specifics. For brevity's sake I will concentrate my remarks in nine areas.

1. Entitlement. Change the definition for entitlement to benefits. Entitlements should be based on predominant cause and require a reasonable connection to the job. This will reduce the number of people receiving benefits and allow a greater amount of dollars to be spent on people that are truly injured and for whom the employer should be responsible.
2. Benefit Levels. As I said earlier, benefit levels cannot be separated from the means of funding them. When the mandated level of wage replacement is significantly greater than wage earning opportunities in the economy, incentives for increased workers' compensation benefit utilization exist. This is especially true in an economy with high unemployment. In Maine, two-thirds of gross wages are replaced. This is sometimes higher than the worker's pre-injury take-home pay because workers' compensation benefits are tax free. Benefits should be based on spendable income -- with 80% being a reasonable number. There should be no incentive to stay out of work.
3. Benefit Duration. Limiting benefit duration for permanent partial disabilities is another area that must be considered. Although improvements have been made in Maine, the maximum duration of permanent partial disability is still 520 weeks, or 10 years. For

comparison purposes, 350 weeks in New Hampshire and 330 weeks in Vermont. Bringing Maine into line with its neighboring states would do much to reduce benefit costs.

4. Medical Cost Containment. One of the principal cost drivers in workers' compensation is medical costs. This should be no surprise. The cost of health care has been regularly identified as a problem of national significance. What is not totally understood is the fact that the techniques used successfully by the Federal Government for Medicare, and by private health insurers, are not available in workers' compensation. W.C. medical coverage is statutory; there are no deductibles, policy limits, co-payments, pre-admission screening, limitations on hospital stay duration, etc. It is no wonder that health care providers are turning more and more to workers' compensation as steps to control health care costs choke off their revenue streams in other areas. Yet much can be done to deliver the kind of medical care which has historically been part of the system and still provide reasonable control of costs. We think the following are particularly important:

A. We need an effective fee schedule for health care providers. Fee schedules, developed with the cooperation of AMA and similar organizations, can be an effective means of controlling costs. These schedules should be reviewed regularly and should include all health care providers, physicians, osteopaths, podiatrists, chiropractors, physical therapists, etc. Maine's schedule is based on the "usual and customary" rate. As a result, fees are established on a historical

basis and continue to escalate without check.

B. Utilization Review. Some states such as Louisiana and Texas have recently adopted procedures which allow the employer to validate the non-emergency health care and control the length of hospitalization. Such things as pre-admission certification, continued stay review and second opinions prior to surgery are efficient in reducing medical costs.

C. Doctor Selection. Current Maine law allows the employee to choose his own medical provider. While on the surface this seems just, it limits the employers opportunity to institute proven methods of cost reduction. Preferred provider organizations (PPOs) through which better prices can be negotiated, have been widely accepted as effective in reducing health care costs. By enabling employers to create PPOs, and directing insured workers to them, significant savings can be realized. Proper safeguards can be built into the PPO itself so the employee is assured access to competent treatment.

Further, doctor shopping to get a favorable opinion has been prevalent in Maine. While this may have been partially addressed in recent reforms, doctor shopping should be driven out of the system.

- D. Eliminate Areas of Medical Disagreement. To the extent that subjectivity exists in the system, litigation follows. The current Maine system is one of the most highly litigious in the country. By reducing the areas of individual interpretation, litigation can be reduced. Use of the AMA Guidelines For the Evaluation of Permanent Impairment is an example of such an approach. It provides a well thought-out, objective basis for determining the economic value of a permanent partial impairment to which all parties can agree. Maine has now adopted these guidelines, although there are concerns that they are not being fully implemented. Independent medical examinations by qualified physicians is another example of how medical disagreement can be reduced. At present most medical issues in Maine are litigated and this needs to stop.
5. System Administration. As other states have grappled with workers' compensation problems it has become obvious that a good workers' compensation law can be vitiated by poor administration of that law. Poor administration is characterized by long delays, a high level of litigation, inconsistent opinions, poorly trained staff and the like. It often takes a year or more to resolve a case before the Workers' Compensation Commission. No revision to the Maine compensation system will be complete without changes in the Workers' Compensation Commission itself. The following are worthy of consideration:
- A. Full Enforcement of the Cost Containment Features of the Law. Existing Maine law provides for the opportunity to control cost which has not been utilized. For

instance, the revisions to the October 17, 1991 Maine Workers' Compensation Act made provision for a medical coordinator with powers to create a network of independent medical examiners, propose fee schedules, implement utilization review, etc. The coordinator was appointed earlier this year, and we understand that the necessary rules to implement these provisions are only partially drafted and have yet to be approved by the Secretary of State. This needs to be fully implemented.

- B. Well-qualified Workers' Compensation Commissioners. New appointees to the Workers' Compensation Commission should receive formal training and all commissioners should receive periodic refresher training. Massachusetts has recently addressed this issue by revising its compensation law to bring its Industrial Accident Board (the equivalent of the Maine Workers' Compensation Commission) under the supervision of a senior state judge. This may contribute to more professional performance. Given the seriousness of the problems in Maine, an argument can be made that Commission employees should be required to re-apply for their jobs. This measure would at least allow a total quality review of the organization.
6. Attorneys Fees. The compensation system should protect each party's rights equally. Employers as well as employees are entitled to fair treatment in contested cases. Attorneys fees should thus be born equally by both parties, not routinely assessed against

the employer as it is now. If one party has nothing to lose, a system designed to function without litigation becomes just the opposite. That is what's happened in Maine.

7. Eliminate Lump Sum Awards. Because litigation and the pot of gold mentality is so pervasive in Maine W.C., something has to be done to break the cycle. Eliminating lump sum awards in all but very controlled coverage issues, would drastically change the economics of litigation and would go a long way toward restoring a balanced system.
8. Pre-existing Conditions. Injuries aggravating a pre-existing compensable injury are a unique problem in Maine. There should be a methodology to start fresh and have the current law govern benefits and administration to reduce the current complex administration.
9. Past Deficit. The large involuntary pool deficits from prior years must be funded in a way that does not kill all chance for a future active workers compensation market. Past deficits are a failure of the past system and a way to distribute the burden fairly must be found.

Let me close by commenting on the alternatives that I see for Maine if you are not able to take a bold new approach to the Maine workers' compensation system. One choice is to try to "lock" insurance carriers into the system without resolving the imbalance between benefits and costs.

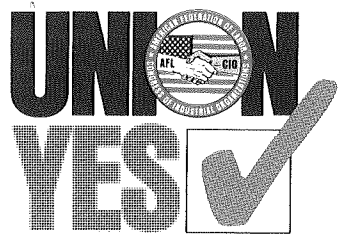
Besides the constitutional issues that are raised, some of which have already been addressed by Judge Alexander in a prior case, such a solution defies the economic law of gravity. The costs are so greatly out of balance that no carrier can afford losses of this magnitude, no matter how profitable its other lines of business. Such a "solution" would quickly cripple the entire Maine insurance market.

Another solution is to create a competitive state fund to write workers' compensation. As unpalatable as this may be to those of us in the private enterprise system, in my view it is the only reasonable option. Private insurers have lost all confidence in the system and in the ability of Maine legislators and administrators to deal with it. The industry has watched one reform effort after another do too little, too late. One carrier after another has concluded that it has no other choice but to abandon the compensation market and surrender its workers' compensation license. These decisions are not easily reached. However, once made, they are also not easily reversed. Although I cannot speak for other carriers and have not discussed this issue with them, I do not believe any carrier who has withdrawn from the market will return until a new system is adopted, tested and found to be working over time. A competitive state fund is a way to prove by actual operation that this system is in balance and eventually private competition will return to a balanced system. Further, any financial penalties for writing future workers' compensation insurance must be eliminated to encourage carriers to return. Of course, if benefits and costs of the system are not brought into balance, the huge deficits now born by private insurers will merely be transferred to the State of Maine and its citizens through the state fund.

I said earlier that I did not envy you your task, and in all sincerity I say it again. Your actions can set Maine on a new path which will be of benefit to all Maine citizens, but bold steps are be required.

Thank you for the opportunity to testify today. I will attempt to answer any questions you may have.

AMERICAN FEDERATION
OF LABOR AND CONGRESS
OF INDUSTRIAL ORGANIZATIONS



Executive Council Members

Lane Kirkland
President
Thomas R. Donahue
Secretary-Treasurer

- Albert Shanker
- Edward T. Hanley
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- Sigurd Lucassen
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- James J. Norton
- Joaquin F. Otero
- Michael Sacco

Testimony of
James N. Ellenberger
Before the
Blue Ribbon Commission
on
Workers' Compensation

Portland, Maine
June 22, 1992

I am James Ellenberger, Assistant Director of the Department of Occupational Safety and Health of the American Federation of Labor and Congress of Industrial Organizations. The AFL-CIO appreciates the opportunity to appear before the Blue Ribbon Commission to share our views on the issue of what might be done to improve the workers' compensation system in Maine to better serve the interests of those protected by this important social insurance program.

Although I am here as a representative of the national AFL-CIO, I do not come before you as a spokesman for the Maine AFL-CIO or of the labor members of Joint Labor-Management Workers' Compensation Group. That has been already been done by those in Maine who are far better equipped and situated. The national AFL-CIO fully supports the positions that have been presented to you previously by Charles O'Leary and Edward Gorham of the Maine AFL-CIO and of the employee members of the Workers' Compensation Group.

The AFL-CIO represents millions of workers, skilled and unskilled, blue collar and white collar, private sector and public sector--both union members and those who are not union members but who benefit from the over 100 years of struggle by the trade union movement to extend rights and protections to all workers. While the national AFL-CIO provides assistance and support to our state organizations and affiliated unions on issues like workers' compensation, it is they who carry the real

burden of making the choices, compromises and decisions that will best serve the interests of workers in their state. The role I am privileged and honored to perform involves representing a "national" viewpoint of working men and women on the vital issues of occupational safety and health and how the nation's workers' compensation system treats those workers injured, diseased or killed on the job.

Historic Compromise

Workers' compensation is frequently, and almost universally, said to have come about as a result of a "historic compromise" between management and labor. Without needlessly rehashing this background, what is important to note is that the concept of this social insurance system involves the notion that two parties struck an agreement whereby each perceived that they got something in return for what they gave up.

However one defines "compromise," the salient fact is that it involves two parties. In workers' compensation those two parties are employers and workers. There are plenty of other parties at interest--medical providers, lawyers, insurers, administrators, legislators, even Blue Ribbon Commissions, to name a few. They are all important and vital to the system, but if this system is not responsive and accountable to the two key elements, employers and workers, you will have (as we have in many jurisdictions today) major problems. The states that are

most successful are those where both labor and management are involved in the formation of workers' compensation policy and overseeing the implementation of that policy.

The frustration of the workers' compensation system is that it provides, in the majority of jurisdictions, lousy benefits at a high cost. If it is to serve the two parties that really matter--workers and employers--they need to take back control from those who are confused as to whether they should serve or be served by the system.

Labor/Management Discussion Group

A little over two years ago, the AFL-CIO and the National Association of Manufacturers agreed to co-chair a national discussion group on workers' compensation. This group is comprised primarily of various labor organizations and business groups. Also participating are insurance associations and the American Medical Association. The goals and objectives of this effort are to:

- Elevate the dialogue on workers' compensation to involve (primarily) representatives of business and labor at the national level in discussion about the current state and future of workers' compensation;
- Support, in appropriate fashion, labor/management involvement in policy discussions and determinations on workers' compensation issues at the state level;
- Release and disseminate, upon agreement, information on meetings of the group, issues that have been discussed, areas where consensus or disagreement exist;

- Maintain the informal, loosely structured and candid nature and atmosphere of the meetings essential to open dialogue.

The most important aspect of this national labor/management group, and one that we have agreed upon in meeting after meeting, is not the issues we discuss or the position papers that we agree to--it is the encouragement, backing and support that we can offer to similar efforts at the state level.

National Commission

In 1970, as part of the Occupational Safety and Health Act, Congress authorized and the President appointed the National Commission on State Workmen's Compensation Laws to evaluate the system. Twenty years ago, in 1972, the Commission issued its report and made 84 recommendations based on the following five objectives for a modern workers' compensation program:

- (1) Broad coverage of employees and of work-related injuries and diseases.

Protection should be extended to as many workers as feasible, and all work-related injuries and diseases should be covered.

- (2) Substantial protection against interruption of income.

A high proportion of a disabled worker's lost earnings should be replaced by workmen's compensation benefits.

- (3) Provision of sufficient medical care and rehabilitation services.

The injured worker's physical condition and earning capacity should be promptly restored.

(4) Encouragement of safety.

Economic incentives in the program should reduce the number of work-related injuries and diseases.

The Commission pointed out that the achievement of these four basic objectives was dependent on a fifth objective:

(5) An effective system for delivery of the benefits and services.

The basic objectives should be met comprehensively and efficiently.

Among the 84 recommendations were nineteen that the Commission said were "essential" to the survival of the state workers' compensation system. The Commission suggested that, if the nineteen essential recommendations were not met by all jurisdictions by 1975, the federal government should enact standards to ensure "adequate, prompt, and equitable" protection.

Despite this threat, many states still fail to meet the National Commission's minimum standards in the area of coverage, occupational diseases, benefit levels, and improved rehabilitation services. So far, the average compliance rate is only 66 percent--and since the late seventies, efforts to improve the system have stagnated. The AFL-CIO is a strong advocate for federal standards and continues to believe that without them many states will simply not act to establish adequate and equitable programs.

Safety and Health

One of the objectives of workers' compensation is to encourage employers to provide safe workplaces through economic incentives. Workers' compensation insurance is supposed to be "experience rated"--at least for larger employers. Other methods of allocating greater costs to those employers with high claim rates include surcharges, penalties and fines. Those with low accident rates may be eligible for discounts, refunds or reduced premium rates in some circumstances.

The unfortunate fact is that financial penalties and/or incentives seem to have little, if any, impact on injury rates and the utilization of workers' compensation. If it were otherwise, in Maine, where workers' compensation costs are among the highest in the nation, one would expect employers to more aggressively pursue policies that would lower the high injury and illness rates.

Legislatures in several states, with the encouragement of labor organizations and safety and health activists, have begun to modify workers' compensation laws to encourage a "pro-active" stance to prevent job injury, illness and death. These programs vary in concept, approach and funding but have as their goal the prevention of injury and pain through safer and healthier workplaces.

Michigan, for example, operates a Safety Education and Training Division under MIOSHA (the division predates the OSHAct and Michigan's decision to become a state plan state). The Safety Education and Training Division employs 29 field consultants who work with employer and employee groups and conduct public seminars throughout the state.

The Division also operates a grant program available to any non-profit organization for specific health and safety training and education. The FY91 budget for the grant program was \$1,043,900. All of the funding for grants is provided by an assessment on workers' compensation indemnity payments (by insurers and self-insureds). Medical payments under workers' compensation are not assessed. The Assessment also funds 50 percent of the education and training programs conducted by the Division. The assessment can vary depending on the amount budgeted and appropriated by the state legislature but cannot, by law, exceed .75 of 1 percent.

The Future

Whatever this Commission, and ultimately the people of Maine, decide to do with the workers' compensation issues before you, one fact is unequivocally and absolutely clear. The remarkable and unique coming together of representatives of employers and workers under the aegis of the "Workers' Compensation Group" must be encouraged, nurtured and supported.

To ignore this group and the extraordinary process it has endured is to invite a peril that may make your current task look pleasurable in contrast.

What to do about workers' comp (Fefer, Mark D.)(Fortune, 5/29/1992) ●

(Available on request-please include the following citation: WC115-BRC-10-436.pdf)

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[Maine State Law and Legislative Reference Library](#)

**James N. Ellenberger
Assistant Director
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James N. Ellenberger started with the AFL-CIO in 1972. From 1973 to 1975 he worked in the Republic of the Philippines as a Program Officer for the AFL-CIO's regional auxiliary organization, the Asian-American Free Labor Institute. In 1975, he returned to the Federation's Department of International Affairs as a specialist on Asian affairs. He was appointed to his current position, in charge of workers' compensation issues, in April 1984.

Ellenberger serves as a member of the Labor Research Advisory Council to the Department of Labor, a founding member in the area of unemployment insurance to the National Academy of Social Insurance, an associate member and a consultant to the Legislation Committee of the International Association of Industrial Accident Boards and Commissions and as a member of the Advisory Board to John Burton's Workers' Compensation Monitor. He is a Certified Employee Benefit Specialist (CEBS).

Ellenberger was born in Palo Alto, California and is a graduate of San Francisco State University. He served in the U.S. Army and commanded a Civil Affairs Platoon in Thua Thien Province, Vietnam.

Ellenberger has served as an officer of Local 35 of the Newspaper Guild and is a member of the American Council on Germany. He has written on a variety of subjects, including articles on German co-determination, Japanese management, international trade union organizations and social insurance issues.

WORKERS' COMPENSATION

Workers' compensation provides replacement income and medical benefits to workers who sustain work-related physical or mental injuries or illnesses. Death benefits are provided to surviving spouses and dependent children of those killed on the job. In the late nineteenth and early twentieth centuries, due to rapid industrialization and the concurrent rise of injuries and illnesses in the workplace, workers' compensation, as a form of social insurance, evolved to guarantee medical and financial assistance to individuals injured on the job and their families.

Prior to the adoption of workers' compensation in the early 1900's workers injured on-the-job could sue their employers for damages but had to prove that their injuries were caused by the employer's negligence or fault. In most cases, courts recognized three common law defenses for employers to escape liability: (1) the injury or death was caused by the negligence of a fellow employee, (2) the worker assumed the risk of injury or death and, (3) the worker was guilty of contributory negligence. Consequently, it was very rare that workers could receive retribution for their disabilities.

Using the courts as a vehicle for handling occupational injury and illness cases was inefficient, time consuming, and frequently inequitable. This reliance on litigation was costly, and very unpredictable -- calling for a badly needed new procedure. Initially, states began to limit the defenses traditionally used by employers to avoid liability. Then, between 1911 and 1920, the United States experienced a remarkable surge of legislative activity as all but eight states implemented workers' compensation programs.

Under workers' compensation, employers are legally responsible for the cost of work-related injuries and illnesses. The employer receives the benefit of exclusive remedy which releases him or her from liability from law suits. In exchange for relinquishing the right to sue his or her employer for a work-related injury or illness, the worker is guaranteed medical care and partial wage replacement without long, extensive, and expensive legal proceedings. Questions of "negligence" and "fault," in theory, have no relevance in workers' compensation.

Presumably, the positive aspects of workers' compensation for the employer are, most importantly, stabilized and minimized

Five objectives for a modern workers' compensation program:

(1) Broad coverage of employees and of work-related injuries and diseases

Protection should be extended to as many workers as feasible, and all work-related injuries and diseases should be covered.

(2) Substantial protection against interruption of income

A high proportion of a disabled worker's lost earnings should be replaced by workmen's compensation benefits.

(3) Provision of sufficient medical care and rehabilitation services

The injured worker's physical condition and earning capacity should be promptly restored.

(4) Encouragement of safety

Economic incentives in the program should reduce the number of work-related injuries and diseases.

(5) An effective system for delivery of the benefits and services.

From the National Commission's 1972 Report

costs. Workers' compensation costs have generally fluctuated around 1 to 2 percent of total payroll costs. The positive aspects for the worker are that he or she should no longer bear the burden of proof and should have the security of receiving a benefit without the delay of litigation.

THE NATIONAL COMMISSION

In 1970, as part of the Occupational Safety and Health Act, Congress authorized and the President appointed the National Commission on State Workmen's Compensation Laws to evaluate the system. In 1972, the National Commission issued its report and made 84 recommendations -- including nineteen considered to be essential to the survival of the state workers' compensation system. The 19 "essential" recommendations fall under three categories: (1) full mandatory coverage for all work-related injuries and illnesses, (2) adequate levels of benefit compensation and, (3) full medical care and rehabilitation.

The National Commission suggested mandating federal standards to ensure "adequate, prompt, and equitable" protection if the nineteen essential recommendations were not met by all jurisdictions by 1975. Despite this signal to improve the program, many states still do not meet the National Commission's minimum standards in areas of adequate coverage of workers and occupational diseases, higher benefit levels, and improved rehabilitation services. More and more legitimate claims are delayed, contested, and frequently denied.

So far, the average compliance rate is only 66% -- and since 1980, progress has virtually ceased. Support for federal standards called for by the Commission has disappeared even though the workers' compensation program remains seriously deficient. Without federally mandated minimum standards, states will not act to establish adequate and equitable programs.

CURRENT STATUS

Coverage

Over ninety million workers are covered under workers' compensation laws. Three states, South Carolina, Texas, and New Jersey, still do not have mandatory and compulsory workers' compensation coverage. Some states do not cover certain types of employees such as domestic workers, farm workers and, workers of small employers (usually employers with less than three or five employees). Twenty-three jurisdictions "waive" some employers, such as realtors and taxi cab owners, from the responsibility of providing workers' compensation coverage for their workers.

Although all states now provide statutory coverage for occupational diseases in their workers' compensation laws, workers frequently experience obstacles and long delays in obtaining compensation for common occupational diseases such as stress conditions, heart ailments, repetitive motion disorders, asbestos related diseases, and back injuries. There are numerous difficulties for claimants pursuing such claims because

the laws are stringent, narrowly conceived, or imprecisely drafted. In fact, the burden of proof for disease causation and work-relatedness is often thrust upon the victim.

Benefits

Workers' compensation benefits include medical treatment, income replacement, and rehabilitation services. While most states base benefit levels on sixty-six and two thirds percent of the workers' pre-injury wage, all states have limitations on the maximum amount (usually based on the state's average weekly wage (SAWW)) that can be paid to a disabled worker or his or her family. Due to low maximum levels, many claimants collect less than the statutory percentage. The National Commission recommended that maximum benefits be at least 100% of the SAWW and preferably 200% by 1975. In eighteen states, the maximum benefit level is less than the state average weekly wage.

A significant number of states limit either the duration or the monetary amount of benefits for different types of disability. Permanently or totally disabled workers who need long-term support are particularly unprotected by benefit limitations. The National Commission objected to any limitations on the amount or duration of payments arguing that disabled workers must be able to rely on workers' compensation for long-term support. Further, it was unfair for the burden of work-related injuries to ultimately be placed on social security disability or other publicly-funded programs.

Compounding the inadequacy of long-term disability benefits is the widespread use of offsets. Nearly 25 states reduce workers' compensation benefits if the claimant receives additional benefits from either a public or private source. Workers' compensation benefits should be the primary source of benefits for work-related injuries and illnesses and should not be reduced by income made available to the worker under other programs. Furthermore, over half of all jurisdictions do not periodically adjust long-term benefits to changes in the cost-of-living.

A key problem in workers' compensation is compensating

permanent partial disabilities since this type of disability is often the most costly and litigious aspect of the program. Some states, using a "wage-loss" system, only replace a portion of lost income for permanent partial injuries and do not provide compensation for any impairment or disability suffered by the worker. Although the disability may not cause the worker to have an actual loss or reduction in income, it could reduce the worker's future earning capacity. Personal factors such as occupation, education and training, and age, should be considered in determining the extent of impairment of the injury or illness. The disability could seriously affect the

worker's future earning potential without necessarily causing an immediate loss in wages.

Insurance

Where workers' compensation is compulsory and mandatory, employers are required to insure their workers in the case of workplace accidents. There are three ways to insure for workers' compensation; commercial (or private) insurance companies, publicly operated State funds, and self-insurance (used primarily by larger employers who can retain their own risk). Three way systems (or competitive State fund states) are those that permit all three. In exclusive state fund

STATE FUNDS

In the early years of workers compensation, state insurance funds grew out of fear and distrust of insurance companies. Businesses were left to the mercy of greedy insurance companies since workers' compensation insurance was required by law for every company. Employers feared that they would go out of business if they could not obtain insurance and if they could get it they would have to pay excessive premium rates. The concept of a state fund soothed these fears of employers since it would keep premiums at the lowest possible cost for employers and be a stable source of insurance coverage. An additional benefit of state funds was that, by nature, it specialized only in the field of workers' compensation which made it a reliable option for employers.

State funds can offer:

1. **Lower Costs.** Workers' compensation insurance can be offered at the lowest possible cost - there is no profit motive.
2. **Availability.** The legislature can assure employers and their employees that insurance for Workers' Compensation is available.
3. **Service.** The fund's motivation is social responsibility and service - not profits.
4. **Operational Efficiency.** Overhead costs are consistently and significantly lower than those incurred by private carriers.
5. **Focus.** By virtue of its purpose, the state fund can focus entirely on Workers' Compensation instead of other lines of insurance.
6. **Pioneer.** Because of its focus and mission, the state fund can pioneer research in improving service, reducing injuries and illnesses, and providing rehabilitation.
7. **Coverage.** Many private carriers, both large and small, limit themselves to certain geographic areas or categories and sizes of employers; a state fund can offer full and complete services through out the state.
8. **Control.** With a state fund, the revenue in the system remains essentially within the state. Investments by the fund can be "locally" important.

Additional advantages of an exclusive state fund:

1. **No sales force required.**
2. **No acquisition costs.**
3. **Administration is simpler.**
4. **Information is more readily available.**
5. **No reliance on a rating bureau.**
6. **Surpluses can be used to reduce premium rates.**

competitive state funds and six states have exclusive state funds. Four additional states, Hawaii, Texas, Maine and Louisiana have authorized competitive state funds but are not yet operating.

As with all types of insurance, premium levels are intended to reflect risk. Workers' compensation rates are determined industry-wide, based on six hundred occupational classifications used by insurance companies. Overall, workers' compensation costs employers about two percent of payroll, but for high wage-paying employers (especially union building contractors) such costs can exceed fifty percent of payroll.

In workers' compensation premiums are based on the total payroll of the firm's covered employees. This method, which is used by all states except Washington, is premised on the argument that since benefits are based on wages, the premium should be based on wages. However, payroll based premiums cannot accurately measure exposure to workplace hazards. Exposure to risk does not necessarily correspond to a worker's income. Under a payroll based system, as payrolls increase - premiums go up, regardless of the rate-setting process.

An alternative premium method, used by Washington State, is currently being supported by some unions and workers' compensation administrators. Washington bases premiums on "hours of exposure" also called "cents-per-hour." If the business of insurance is to measure and insure risk, hours on the job is a much more accurate measurement of exposure to risk than the payroll of those exposed to that risk.

Benefit Levels

State	Maximum Weekly Benefit ¹	Maximum Benefit as % of state's average weekly wage ²
Iowa	733.00	197%
Vermont	592.00	149
New Hampshire	633.00	143
Maine	518.42	134
Illinois	655.73	133
Connecticut	737.00	129
Alaska	700.00	121
Wisconsin	450.00	110
North Carolina	429.00	109
Oregon	429.71	104
Missouri	431.26	103
Wyoming	392.00	102
Maryland	475.00	100
Pennsylvania	455.00	100
Ohio	443.00	100
Florida	409.00	100
South Carolina	379.82	100
Texas	438.00	99
Montana	336.00	99
District of Columbia	613.09	99
Minnesota	443.00	99
North Dakota	334.00	99
Rhode Island	427.00	99
Nevada	421.26	98
South Dakota	308.00	98
Kentucky	380.00	98
Utah	378.00	98
Alabama	385.00	98
West Virginia	394.02	98
Hawaii	437.00	98
Washington	434.13	98
Massachusetts	515.52	98
Virginia	418.00	96
Michigan	441.00	90
Colorado	395.71	89
Idaho	324.00	86
New Mexico	307.30	83
Indiana	328.00	78
Arizona	323.08	78
Nebraska	265.00	74
Louisiana	295.00	74
Kansas	289.00	74
Tennessee	294.00	74
New Jersey	409.00	73
Arkansas	241.93	69
Mississippi	227.18	67
California	336.00	66
Delaware	312.39	65
Oklahoma	246.00	63
New York	350.00	62
Georgia	225.00	52

¹ TTD as of 1/1/92

² AWW of 6/30/91

Source: U.S. Department of Labor.

PLIGHT OF THE WORKPLACE

Unfortunately, employers and insurers often lose sight of the most practical and sensible solution to reducing workers' compensation costs--implementing preventative strategies to eliminate injuries and illnesses in the workplace. Since the National Commission released its landmark report, some states have made strides in improving their workers' compensation programs. Unfortunately, the condition of the workplace has worsened. A recent Bureau of Labor Statistics annual survey indicates that the incident rate for occupational injury and illness has grown from 7.9 per 100 full time workers in 1986 to 8.8 per hundred in 1990.

The workers' compensation "crisis" will continue until the needless human suffering and economic costs of job injuries, illnesses and death are drastically reduced. This will require:

- Making safe and healthy workplaces our top priority.
- Mandating a written safety plan and joint labor/management committee for every workplace.
- Educating employers and workers about work hazards and safe practices and responsibilities.
- Insisting that insurers provide loss-prevention services.

Labor Management Discussion Group on Workers' Compensation

**The Administration of
State Workers' Compensation Programs**

Introduction

The Labor/Management Discussion Group on Workers' Compensation is a group led by representatives of employers and workers which has been meeting for some time to discuss concerns about workers' compensation. A list of the membership is attached. The group has adopted the following recommendations concerning state workers' compensation programs.

It should be the goal of a state workers' compensation system to provide benefits in a timely manner, to avoid disputes wherever possible, and to resolve expeditiously those disputes that do arise.

1. Administrative Agency

States should utilize an effective workers' compensation agency to fulfill the administrative and adjudicatory obligations of a modern workers' compensation program. These agencies may sometimes be referred to as "courts," but that agency, not the state's courts of general jurisdiction, should be the principal locus of dispute resolution.

2. Funding

It is essential that there be adequate funding for the state workers' compensation agency. An advisory committee, as mentioned below, might be employed to oversee the budget of the state workers' compensation agency and to advocate for sufficient resources when appropriate.

3. Education

Workers' compensation will function most efficiently if all the parties understand their rights and responsibilities. A state workers' compensation agency should design and actively pursue programs for educating and informing all the parties involved in the system.

At a minimum the agency should provide pamphlets explaining the law in

simple language (and in language other than English where that is appropriate) and a toll free number where more information can be obtained.

State agencies are encouraged to use public service announcements on radio and television and any other means available in order to inform the public about workers' compensation programs. Where possible, it would be desirable to have public service announcements sponsored jointly by labor and business groups. States are also encouraged to have well informed professionals available to provide information to workers and employers.

A state educational program should include efforts to inform the parties about the importance of prompt reporting of injuries by workers to employers, by insured employers to their insurance carriers, by self-insured employers and insurers to the state agency, and by medical providers to other appropriate parties.

4. Enforcement

Each state agency has a duty to enforce the requirements of the state's workers' compensation act.

This includes the requirement that insurers and self-insured employers pay benefits in accordance with the statute and in a timely manner. Each state should have some method of insuring that this is done. Each state should compile and publish data which lists the on time payment record of self-insured employers and insurers.

The appropriate state agency must also enforce those provisions of the act that apply to employers, including provisions that require employers to provide security for compensation and to fairly and honestly represent their operations when securing compensation insurance.

The state agency must also take steps to insure that workers use the system in the manner that it was intended.

Finally, the state agency should monitor the conduct of attorneys, medical providers, vocational rehabilitation providers, insurance agents, brokers, third party administrators and others to ensure that they perform in accordance with the requirements of the act.

5. Dispute Resolution

While education and other steps may reduce the frequency of disputes, it is recognized that a formal dispute resolution procedure must be available.

When there is a dispute, there should be some form of informal dispute resolution procedure which is offered to parties as early as possible. The parties should be able to effectively participate in this procedure without being represented by attorneys.

When formal disputes occur, efforts should be made as early as possible to identify the issues in dispute and to exchange information between the parties. There should be some procedure in place to ensure this.

It is desirable that disputes be resolved as promptly as possible. Each state should establish standards for the resolution of disputes. Such standards might include as a desired level of achievement a requirement that a certain percentage of all cases be resolved within a specified period of time.

Each state should gather and publish data which indicates how long it takes to resolve disputes in that jurisdiction.

Steps should be taken in each jurisdiction to insure that hearing officers and commission members work productively and efficiently and that they decide cases in an unbiased manner. Each state should initiate some procedure to achieve these goals. This might include the appointment of a bipartite review committee, the publishing of data concerning the productivity of hearing officers, and/or establishing standards by which judges would be examined concerning their knowledge of the law and processes. A procedure similar to that used by bar associations in screening judicial appointments might be considered.

In disputed cases the parties are entitled to a full and fair hearing on the record of the factual issues involved in the dispute. In the past some jurisdictions have allowed a retrial of factual issues at an appellate level. It is recommended that the system be design to resolve **factual issues** at the first formal hearing. The review of factual issues by an appeal board or commission should be limited. Such an appellate body should of course review legal issues. There should be a further appeal from the commission to the state courts. That appeal should also be limited to legal issues.

6. Data Collection

A number of organizations are reviewing issues concerning the collection of data related to workplace disability. It is essential that labor and management be involved in this process.

State workers' compensation agencies should gather data which will allow them to evaluate and manage the state's workers' compensation system. In order to collect and analyze this data, it is essential that state agencies computerize their operations. There are important advantages to be gained

for all concerned, if states comply with the recommendations of their national associations and gather data that is similar and comparable, and if they allow the submission of data in formats that are standardized.

7. Disputes Over Medical Issues

Many disputes in workers' compensation cases involve issues that are medical in nature (for example, the extent of impairment or the utilization of medical services). Each state should maintain a panel of medical experts from various fields who would be available at the request of the state agency to offer an impartial opinion on the disputed issues.

8. Advisory Councils

It is recognized that states frequently find a need to revise their workers' compensation statute and/or regulations. Each state should have an advisory council or committee which allows for continuing input to the state agency and the legislature concerning the workers' compensation system of that state. The voting members of the committee should be an equal number of representatives of labor and management. Other parties, such as insurers, medical providers, attorneys, and others, may be included as non-voting members.

The existence of such a committee does not necessarily guarantee success in amending or improving a state's workers' compensation act. If individuals who understand the state's workers' compensation system, who have a genuine interest in that system, and who can speak for their respective interest groups are actively involved in monitoring the system, rational improvements are more likely.

9. Mandatory Coverage

Coverage under workers' compensation should be mandatory. Neither employers nor employees should be allowed to "opt out" of workers' compensation.

**Labor/Management Discussion Group on Workers' Compensation
Membership List**

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Food & Allied Service Trades Dept.
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Others

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Labor Management Discussion Group on Workers' Compensation

Data Collection

I will attempt here to list a few of the issues related to data collection. Please understand that this is a first attempt to pull these issues together and is subject to revision.

THE INITIATIVE

There has been discussion lately, both within the Labor/Management group and in general, concerning the collection of data relative to workers' compensation. This has resulted from a number of factors including:

- 1) Proposal by the U.S. Department of Labor to change its data gathering procedures.
- 2) Requests from various parties to analyze the costs of workers' compensation.
- 3) A model regulation promulgated by the National Association of Insurance Commissioners (NAIC).
- 4) Revising of the Basic Administrative Information System (BAIS) by the International Association of Industrial Accident Boards and Commissions (IAIABC).

Everyone wants to know how well workers' compensation systems are functioning in each jurisdiction. Many players are quite concerned about data which can be used to prevent injuries in the future. Some parties, however, express concern about the costs of data gathering, while others are concerned about the confidentiality of this information.

As these various events come together, it seems an appropriate time to consider what changes, if any, should be made in the way the various parties gather data about workplace disability.

REASONS FOR COLLECTING DATA

There are several reasons for gathering data:

- 1) To prevent future injuries and occupational disease. For this purpose, as much information as possible should be gathered concerning the incidence, cause, and nature of disabilities.

- 2) To administer a state workers' compensation system. This requires gathering data about what payments have been made, when, and by whom, as well as other information about the performance of the state system.
- 3) To analyze the performance of a state workers' compensation system. This requires information about where the money is going, what are the problems, and what is the likely result of proposed changes.
- 4) To set workers' compensation premium rates. This requires information about the losses in each job classification, as well as information about the trends and expenses.
- 5) To experience-rate employers. This requires gathering information about the experience of each individual employer, as well as information about all employers in each classification.

PLAYERS

There are various organizations that are playing a role in the current discussion of workers' compensation. Many of them are already gathering data concerning this topic.

State Workers' Compensation Agencies

Every state workers' compensation agency currently gathers some data about the injuries that occur within its jurisdiction. At a minimum, this includes the fact that an injury occurred, when benefits started, when benefits stopped, and the amount of benefits paid. Some states gather considerably more information about the nature of the injury. Some gather information about medical payments, while others do not. There is a great variation among the states as to how this information is maintained. In some cases, it is stored in computers in a manner that makes it available for retrieval and analysis. There are rumors that in other jurisdictions the forms are "put in cardboard cartons and stored in the basement."

U.S. Department of Labor

Information about workplace injuries has been gathered by the U.S. Department of Labor since the passage of the Occupational Safety and Health Act (OSHA). Until recently, this information has been gathered by the Bureau of Labor Statistics (BLS). Recently, however, a decision has been made that data collection will be governed by the Occupational Safety and Health Administration (OSHA), and the analysis of the data will be done by BLS.

There are also proposals to change the form in which data is collected by the federal government. Until the present, certain information has been recorded on the "OSHA Log." A summary of this data is reported to the federal government. More detailed information about time loss injuries is reported to OSHA on a "first report of injury" form. In many states the same form is used for OSHA and for the state workers' compensation agency.

A number of proposals for changing this have been discussed and experiments have been carried out. It now appears most likely that OSHA will adopt a procedure whereby all injuries will be reported on a form similar to the first report of injury. This form could potentially be used for both OSHA and state workers' compensation agencies.

OSHA has initiated a dialogue with the insurance industry concerning this topic. There have been a couple of joint meetings between OSHA and various representatives of the insurance industry. This group does not include self-insured employers.

National Council on Compensation Insurance (NCCI)

For many years NCCI has gathered data about losses which it uses when acting as an advocate for the insurance industry before the various commissions or individuals who set workers' compensation insurance premium rates. NCCI also gathers data which is used to establish experience modifications for individual employers. NCCI gathers this data for a majority of the states and assists in the analysis of the data in a number of additional states.

From time to time, NCCI has also used its database to analyze the workers' compensation systems in various jurisdictions and to provide estimates of the costs of proposed legislative changes.

For a number of years, NCCI has conducted a call for Detailed Claims Information (DCI). At first this was conducted in only 13 states. It was later expanded to include a few more states. Recently, NCCI has announced that it will gather this information in all the jurisdictions where it is involved. The DCI is a ten percent sample and gathers detailed information about each claim in the sample. It only covers injuries occurring with insured employers. It does not cover injuries with self-insured employers.

BAIS and the NAIC Model Regulation

Over 10 years ago, the International Association of Industrial Accident Boards and Commissions (IAIABC) adopted a Basic Administrative Information System (BAIS). This was designed to be a model that state workers' compensation

agencies could use in constructing an information system which was designed primarily to administer the state agency. Beginning in the late 80's, the IAIABC initiated a project to update BAIS. The new BAIS is an expanded system. It includes data needed to evaluate a state's workers' compensation program, as well as management information.

At about the same time that the BAIS project was taking place, the National Association of Insurance Commissioners (NAIC) adopted a model regulation under which states would gather information which could be used to analyze the operation of a state's workers' compensation system. As the BAIS and NAIC projects were being completed, the two organizations formed a joint task force, and as a result, the finished product of both projects are quite similar.

The Accord Form

There is a form published by a company known as Accord which has been endorsed by the IAIABC as a model form to be used for the first report of injury. While it has been recommended by the IAIABC, it has actually been fully adopted in only a very few states.

CONCERNS

While almost everyone agrees that we need more and better data, there are a number of concerns about the various approaches being taken.

Sufficiency of Data

Some groups express concerns that not enough data will be gathered to form the analysis required or that it will not be gathered in a way that allows for the proper analysis.

Cost

While everyone agrees that it is good to have data, some parties are concerned that the cost of gathering and analyzing the data will be excessive.

Duplication

All parties agree that duplication should be avoided whenever possible. Businesses feel that duplication will add to the cost. Organized labor is willing to cooperate with business and reduce cost, so long as the necessary information can be gathered. There is, however, a nagging concern that duplication may result, because this data gathering can be mandated by various agencies which are

completely independent of one another.

Confidentiality

Most people would agree that the names of individual injured workers should be kept confidential. At the other extreme, most would also agree that aggregate data about workers' compensation systems should be made public. There is a difference of opinion, however, concerning whether detailed information about individual employers should be kept confidential.

Compatibility of Data Systems

We are hopefully moving into an era where much of this information can be gathered and exchanged efficiently and at lower cost through electronic means. Efficiency, however, depends on the extent of the compatibility of the various data systems. If each state and the U.S. Department of Labor has vastly different requirements, much of the efficiency will be lost. At the same time, it has been felt by many over the years that state workers' compensation agencies should be completely autonomous. The IAIABC has recently formed a committee to study issues related to the electronic gathering of data.

The Unique Role of NCCI

NCCI currently gathers a great deal of information which is useful in analyzing state workers' compensation systems. Its expanded DCI will provide another rich source of information and analysis. It has been suggested by some that this could, to some extent, substitute for the gathering of data by state workers' compensation agencies.

Many people are concerned, however, that this would not be possible. First of all, NCCI has for many years been an advocate for the insurance industry in the setting of workers' compensation insurance premium rates. Secondly, the data for the DCI is gathered by insurance company employees reviewing insurance company files. Third, the access to the database is controlled by NCCI. It is not yet clear to what extent this database would be made available to outside parties. Would the NCCI allow outside parties to access the database and perform analyses? Would it charge for this? Would it control priorities? Would the NCCI maintain the database itself and simply produce its own analysis of the data from time to time?

While it is clear that the DCI is a valuable source of information, it is difficult to understand how it could substitute for the gathering of data by state agencies if access to it is controlled by the NCCI.

The Role of the NAIC and the IAIABC

The National Association of Insurance Commissioners and the International Association of Industrial Accident Boards and Commissions are voluntary associations comprised primarily of the administrators in each jurisdiction who have responsibility for insurance and workers' compensation, respectively. The fact that they adopt a regulation does not, in itself, have any effect whatsoever. The model regulations that they adopt only have effect if they are eventually adopted by the individual states.

Practical Limitations

The BAIS and NAIC model regulations describe comprehensive data gathering systems. To date, only one state has even attempted to implement the NAIC model and none claim to have fully implemented the new BAIS system. It would be ideal if all states were to gather this information and make it available for analysis. The practical considerations, including the cost, make it seem rather unlikely that this will occur in the near future.

BRINGING IT ALL TOGETHER

It seems quite clear that the various state workers' compensation agencies will continue to gather information about each injury that occurs within their jurisdiction. It seems likely that as time goes by, this and the NAIC model regulation will have some influence on the decisions they make in structuring their databases. It also seems quite clear that OSHA will adopt some new scheme for gathering data about occupational injuries and diseases. It would seem that to the extent these efforts can be coordinated, the systems will be improved for the benefit of all parties involved. It would also seem that, if good comprehensive data were readily available, we could prevent future injuries.

There appears to be some conflict among the parties concerning cost, confidentiality, and the amount of data to be gathered. There may also be some "turf" battles among the various agencies. At the same time, this topic has the potential of being one area within workers' compensation where all the parties could come to an agreement.

1 an anniversary review by the court at which, unless waived by the
2 employer, the court shall make findings as to whether maximum medical
3 improvement has been reached, as to the degree of functional impair-
4 ment and/or disability of the employee, and as to whether the
5 employee should be classified as partially disabled or totally dis-
6 abled. Temporary total disability shall not last beyond the anniver-
7 sary review. Unless waived by the employer, an anniversary review
8 shall be conducted annually thereafter. The court shall perform this
9 anniversary review of cases where injury occurs after the effective
10 date of this statute.

11 SECTION 11. CHAPTER 28-33 OF THE GENERAL LAWS ENTITLED "WORKERS'
12 COMPENSATION -- BENEFITS" IS HEREBY AMENDED BY ADDING THERETO THE FOL-
13 LOWING SECTION:

14 28-33-47. Reinstatement of injured worker. -- (a) A worker who
15 has sustained a compensable injury shall be reinstated by the
16 worker's employer to the worker's former position of employment upon
17 demand for such reinstatement, if the position exists and is available
18 and the worker is not disabled from performing the duties of such
19 position, with reasonable accommodation made by the employer in the
20 manner in which the work is to be performed. A workers' former posi-
21 tion is "available" even if that position has been filled by a re-
22 placement while the injured worker was absent as a result of the
23 worker's compensable injury. If the former position is not available,
24 the worker shall be reinstated in any other existing position which is
25 vacant and suitable. A certificate by the attending physician that
26 the physician approves the worker's return to the worker's regular
27 employment or other suitable employment shall be prima facie evidence
28 that the worker is able to perform such duties.

29 (b) Such right of reinstatement shall be subject to the provi-
30 sions for seniority rights and other employment restrictions contained
31 in a valid collective bargaining agreement between the employer and a
32 representative of the employer's employees, and nothing shall exempt
33 any employer from or excuse full compliance with any applicable provi-

1 sions of the Americans with Disabilities Act and chapter 42-87 (Dis-
2 crimination Against the Handicapped) of the general laws.

3 (c) Notwithstanding subsection (a) of this section:

4 (1) The right to reinstatement to the worker's former position
5 under this section terminates upon any of the following:

6 (A) a medical determination by the treating physician, impartial
7 medical examiner or comprehensive independent health care review team
8 that the worker cannot, at maximum medical improvement, return to the
9 former position of employment or any other existing position with the
10 same employer that is vacant and suitable;

11 (B) the approval by the director of labor of a vocational reha-
12 bilitation program for the worker to train the worker for alternative
13 employment with another employer;

14 (C) the worker's acceptance of suitable employment with another
15 employer after reaching maximum medical improvement;

16 (D) the worker's refusal of a bona fide offer from the employer
17 of light duty or modified employment which is suitable prior to reach-
18 ing maximum medical improvement;

19 (E) the expiration of ten (10) days from the date that the worker
20 is notified by the insurer or self-insured employer by mail at the ad-
21 dress to which the weekly compensation benefits are mailed that the
22 worker's treating physician has released the worker for employment
23 unless the worker requests reinstatement within that time period;

24 (F) the expiration of (i) thirty (30) days after the employee
25 reaches maximum medical improvement or concludes or ceases to partici-
26 pate in an approved program of rehabilitation, or (ii) one (1) year
27 from the date of injury, whichever is sooner. Notwithstanding the
28 foregoing, where the employee is participating in an approved program
29 of rehabilitation specifically designed to provide the employee with
30 the ability to perform a job for which he or she would be eligible
31 under subsection (a) the right of reinstatement shall terminate when
32 the employee concludes or ceases to participate in such program or
33 eighteen (18) months from the date of injury, whichever is sooner;

1 (G) except where otherwise provided under a collective bargaining
2 agreement, the approval by the court of a settlement pursuant to this
3 act.

4 (2) The right to reinstatement under this section does not apply
5 to:

6 (A) a worker hired on a temporary basis;

7 (B) a worker employed in a seasonal occupation;

8 (C) a worker who works out of a hiring hall operating pursuant to
9 a collective bargaining agreement;

10 (D) a worker whose employer employs nine (9) or fewer workers at
11 the time of the worker's injury;

12 (E) a worker who is on a probationary period of less than
13 ninety-one (91) days.

14 (d) Any violation of this section is hereby deemed an unlawful
15 employment practice. If the employee applies for reinstatement under
16 this section and the employer in violation of this section refuses to
17 reinstate the employee, the department of labor is authorized to order
18 reinstatement and award back pay and the cost of fringe benefits lost
19 during the period as appropriate, and may require the employer to
20 reimburse the carrier for indemnity benefits, which the carrier shall
21 continue to pay during the period of violation.

22 (e) When an employee is entitled to reinstatement under section
23 28-33-47, but the position to which reinstatement is sought does not
24 exist or is not available, the employee may file for unemployment ben-
25 efits as if then laid off from that employment, and unemployment bene-
26 fits shall be calculated pursuant to section 28-42-3(10) of the
27 Employment Security Act. Provided, however, that an employee cannot
28 collect both workers' compensation indemnity benefits and unemployment
29 benefits under this section.

30 (f) The education division of the department of labor shall pro-
31 vide information to employees who receive benefits under this title of
32 the provisions of this section.

33 SECTION 12. Sections 28-34-4 and 28-34-6 of the General Laws in

1 provisions-of-this-chapter assign the matter for a mandatory pre-trial
2 conference on the date set forth in the notice pursuant to section
3 28-35-20. If--the--commission--is-not-satisfied-that-the-employee-has
4 returned-to-work-at-an-average-weekly-wage-equal-to-or--in--excess--of
5 that--which--he-was-earning-at-the-time-of-his-injury,-it-shall-notify
6 the-employer-or-insurer-to-continue-or--resume--compensation--payments
7 even-after-they-have-been-suspended.

8 28-35-57. Limitation of claims for compensation. -- (a) An
9 employee's claim for compensation under chapters 29 to 38, inclusive,
10 of this title shall be barred unless payment of weekly compensation
11 shall have commenced , or a petition as provided for in this chapter,
12 shall have been filed within three-~~(3)~~ two (2) years after the occur-
13 rence or manifestation of the injury or incapacity, or in case of the
14 death of the employee, or in the event of his or her physical or
15 mental incapacity, within three-~~(3)~~ two (2) years after the death of
16 the employee or the removal of such physical or mental incapacity.

17 (b) The time for filing shall not begin to run in cases of latent
18 or undiscovered physical or mental impairment due to injury including
19 disease until:

20 (1) the person claiming the benefits knew, or by exercise of
21 reasonable diligence should have known, of the existence of such
22 impairment and its causal relationship to his or her employment or

23 (2) after disablement, whichever is later .

24 (c) In any case in which weekly compensation benefits have been
25 paid, pursuant to section 28-35-8, in which the employer or insurer
26 has failed to file the required notices, the claimants right to file a
27 petition for compensation benefits shall be preserved without time
28 limitation.

29 28-35-57.1. Bar of claims. -- An employee's claim for compensa-
30 tion from an employer under chapters 29 to 38, inclusive of this
31 title, shall be barred from the date the employee commences employment
32 for a period of two (2) years in the event the employee wilfully pro-
33 vided false information of-or-intentionally-fail-to--disclose--his--or

1 her--worker's--compensation--history--to--the--employer--on--an--employment
2 application--requesting--that--information,--which--information--is--directly
3 related--to--the--personal--injury--which--injury--is--the--basis--of--the--new
4 claim--for--compensation,---This--section--shall--not--apply--unless--the
5 employment--application--advises--the--employee--of--the--substance--of--this
6 section, as to his or her ability to perform the essential functions
7 of the job, without reasonable accommodations, to the employer on an
8 employment application requesting that information, which information
9 is directly related to the personal injury which injury is the basis
10 of the new claim for compensation. This section shall not apply
11 unless the employment application advises the employee of the sub-
12 stance of this section, and nothing herein shall exempt any employer
13 from or excuse full compliance with any applicable provisions of the
14 Americans with Disabilities Act and chapter 42-87 (Discrimination
15 Against the Handicapped) of the general laws.

16 ~~28-35-61--Decrees---procured---by---fraud---or---otherwise----~~
17 28-35-61. Decrees procured by fraud. -- (a) The workers' compensation
18 commission court may, upon petition of an employee, the dependents of
19 a deceased employee, an employer, an insurance carrier, or any party
20 in interest, vacate, modify, or amend any final decree entered within
21 a period of six (6) months prior to the filing of the petition, either
22 by a single commissioner judge or by the full commission court, if it
23 shall appear that the decree;

24 (1) Has been procured by fraud or

25 (2) Does not accurately and completely set forth and describe the
26 nature and location of all injuries sustained by the employee.

27 (b) The petition shall be served in the same manner as is pro-
28 vided for in chapters 29 -- 38 inclusive, of this title, for all other
29 petitions.

30 (c) The workers' compensation commission court shall hear any and
31 all such petitions and make its decision in accordance with the provi-
32 sions of those chapters.

33 SECTION 14. Section 28-37-31 of the General Laws in Chapter



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June 22, 1992

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Dear Blue Ribbon Commission Members:

I wish to thank you for the opportunity to provide testimony before the Commission on the critically important issue of restoring Maine's Workers' Compensation system. One of the questions asked of me was Hanover's position vis-a-vis the Michigan plan and other state plans, as well as other, more specific positions on issues which need to be addressed to remedy the current crisis. Please accept the following comments as Hanover's further response on these issues.

First, Hanover has increasing concern with the concept of the wholesale adoption of another state's law to replace Maine's current workers' compensation system. Our concern stems from the very complicated and expensive transition issues which would be encountered in following such a path. Not only are the legal complications staggering in adopting a sister-state's entire law, but the costs associated with creating and administering a new system would be as well. Such costs are very difficult to anticipate prior to a system's adoption.

In addition, Hanover has very serious reservations about whether Michigan is the appropriate system, were such a wholesale adoption to occur. We believe that there is no basis for believing that the savings Michigan seems to realize with their system will be duplicated here in Maine.

In particular, it is our estimation that Michigan's benefit schedule, while appearing to work in Michigan, would not produce cost savings if transplanted in Maine. A major component of the 1987 reform was elimination of unlimited durational limits on partial disability benefits. Under Michigan law, even though the wage calculation may result in a lower weekly benefit, such benefits would be unlimited. Returning to the unlimited durations coupled with the high frequency of claims in Maine would lead to an explosion of costs, just as it did prior to the 1987 law change. This is but one example

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of a provision of Michigan's benefit schedule, which, we believe, will return us to the disaster years of pre-1988. This would be unacceptable to us.

Hanover has also compared the premium levels for workers' compensation classifications between Maine, Michigan, and Wisconsin. The results strongly advocate against the adoption of Michigan's system. The average rate in Maine is 10.88, while Michigan is 10.22, virtually no difference. On the other hand, Wisconsin's average rate is 6.43, significantly less. Moreover, closer examination of individual rates demonstrates that many of the more common classifications, particularly industry-related, are higher in Michigan than in Maine. As one of the principal goals of your Commission is to significantly reduce costs to employers, adoption of Michigan's benefit schedule would lead to a failure to meet this critical goal.

Thus, given the high claim frequency rate in Maine, the virtually same average rates and the higher rates in Michigan for many individual classifications, and the presence of "flashpoints" for litigation in Michigan law, which we have just closed in Maine, we are lead to conclude that we would not be able to support the adoption of the Michigan system or its benefit schedule as being in the best interests of Maine. Were Michigan adopted, it would be unlikely that we could participate as an insurer in the workers' compensation system.

Nevertheless, we wish to offer positive suggestions for resolving the issues we all face. We have identified the following eight key areas which must be addressed in order to restore confidence and stability to Maine's workers' compensation system. We believe that if all these issues are appropriately addressed, not only will the immediate workers' compensation crisis be resolved, but that a healthy, normal system, in which Hanover can continue to play a role, will be restored within an acceptable time period.

1. OPEN COMPETITION

We believe that in order to restore a healthy voluntary workers' compensation insurance market, rate setting within that market be regulated in the manner currently occurring for the balance of the property/casualty arena. We believe that a simple rate-setting statute can be fashioned, patterned on current Maine statute, which would provide for open and competitive competition among carriers in the voluntary market. See 24-A M.R.S.A. Chapter 25, Subchapter 1, §§2301 et seq. This change can be simply completed by making workers' compensation rate-setting applicable to Subchapter 1 of Chapter 25 of Title 24-A. Any further specificity needed for ratemaking can be accomplished administratively by the Bureau of Insurance. Furthermore, we see no need for the involvement of the Public Advocate in this process, as the Bureau of Insurance is the only appropriate regulator and watchdog. We believe that such competitive rate-setting will encourage greater carrier involvement more quickly than otherwise might be the case as we move into this new era. A competitive insurance market will greatly help to restore stability in the system.

However, we must caution the Commission against giving new or returning insurance carriers any competitive advantage over the current, authorized carriers in any attempt to restore a competitive marketplace. Any actual or perceived advantage that is given to carriers, who have not shown the willingness to help the market like the few remaining carriers in today's market, will certainly be met with disapproval from Hanover.

2. SELF-FUNDED RESIDUAL MARKET

The Commission has been presented with different proposals for "reforming" the existing residual market. Most of these have a similar thread, whereby today's residual market would be reconstituted into either a mutual company or "self-insurance" styled regional pools, both of which would be managed by employers rather than the insurance industry, and employers would thereby be responsible for any deficit accruing to that market. Advocates include the Governor, the Self-Insurance Council, as well as the chairs of the Legislature's Banking and Insurance Committee. While we are certainly in agreement that any residual market mechanism be self-funded, we have identified some issues that must be explored to insure the success of any such plan, as well as to determine whether the plan can be successfully incorporated into the eventual overall strategy that will restore the workers' compensation market. The issues which we have identified, which may not be inclusive, include the following:

a. Solvency.

Solvency protection in the form of a guaranty fund must be incorporated, but be completely separate from the two existing guaranty funds that currently protect workers' compensation claimants.

b. Adequate Rates.

The new residual market mechanism must set adequate rates so that there are not incurred insolvency situations on an unacceptable frequency rate. In order to guarantee the solvency of the new mechanism and protect claimants, employers must pay adequate rates in order to cover expected claims and costs. Furthermore, inadequate rates would greatly inhibit the restoration of the voluntary insurance market and, thereby, prolong the crisis atmosphere surrounding Maine's workers' compensation system. Moreover, any attempt, whether by the Commission or the Legislature, to implement an unsubstantiated flat rate rollback will lead to the collapse of the insurance market.

c. Effective Date.

There is a concern in the business community that a uniform effective date of policy coverage may need to be utilized in order for employers to immediately realize the expected lower rates under the new system. As you know, the vast majority of insured employers are in the current residual market. There are numerous renewal dates on those policies that number as many

days as there are in a year. After any major reform, a full year must pass before all employers realize the cost savings associated with such reform. Depending on employer demand for immediate savings, the Commission may be forced to determine whether the transition period should last the traditional full year or not. If it does not wish to wait a full year, the cancellation of all existing residual market coverage must occur, entailing refunds of premium previously collected for periods that would not fall under the new system, as well as further complicate many administrative matters which occur on the renewal of insurance coverages. The Commission must be aware that the renewal of an insurance policy requires a great deal of work, such as renewal quotes, calculation of experience modification factors, premium audits, billing and collection, and other administrative procedures. We believe that a system with common renewal dates could not work and might restrict the number of servicing entities willing to service the new system; therefore, the Commission must weigh these factors when considering how to transition into a new system.

d. Reinsurance.

There must be serious exploration and consideration given by the Commission into whether reinsurance is necessary and prudent to cover large claims in the new mechanism and, if so, whether providers are willing to issue reinsurance coverage to whatever residual market mechanism the Commission establishes. By having regional pools, with many differing and varying employers, obtaining reinsurance over such pools may be difficult. This reinsurance issue should be important in deciding whether one entity or the pooling arrangement is chosen for this new system.

e. Employer Flight.

The Commission must also give consideration to issues that arise when an employer moves from the voluntary market into these pools, from the pools into the voluntary market or self-insurance, or from a pool into the accident prevention account or its successor. All of these movements have implications concerning assessments, solvency, and liability arising under workers' compensation. Rules must be established that govern the apportionment of such assessments and liabilities when an employer moves from one of these particular markets into another.

f. Size Constraints.

With this term, we identify the issue of whether or not one particular employer in a regional pool would dominate that pool because of its size and work force characteristics and, therefore, skew the experience and costs of a pool. Adequate investigation should be undertaken to determine what problems arise when a regional employer would dwarf all the other players of regional pool. With one or a few major employers dominating, transfer of liabilities from the major employer to the smaller employers may occur. Such transfer of liability needs to be considered.

g. Servicing Stability.

We believe that any servicing contracts entered into to service this new residual market mechanism(s) should be for a period of at least three years. This would provide stability in servicing and permit closer cooperation between the servicer and the pool in order to effectively deal with loss control, claims handling, and other services that are utilized when providing efficient and economical servicing. The Commission should also be aware that servicing contracts for the more remote regions would likely run a little higher, since the bulk of servicing entities are located within the southern half of the state. Therefore, employers should not expect all servicing arrangements to be of equal cost.

3. INCORPORATION OF BENEFIT SCHEDULES

We believe that the adoption of a "benefit schedule" system, similar to Wisconsin's, provides the necessary and critical ability to accurately predict the costs of a new system. Our investigation reveals that the system in Wisconsin provides fair and appropriate benefits to injured workers in a manner which reduces, to a significant degree, controversy erupting between employees and employers over the issue of entitlement to those benefits. A benefit schedule, as proven by the Wisconsin system, also addresses two other critical areas of concern: attorney involvement, and efficient administration. These are further discussed below. Moreover, the adoption of the schedule of benefits, as mentioned above, makes the process of guessing future costs of a system much more predictable, and thereby, assures that premium is set appropriately and that employers are adequately paying to fund the system. This further reduces the fear that a particular system, whether a voluntary or a residual market, is being underfunded, thereby scaring away carriers and further heightening employer and employee mistrust of the system. Therefore, we strongly urge that the Commission adopt a "schedule benefit" system and thoroughly investigate Wisconsin's law for delivering benefits to injured employees.

4. ADMINISTRATION

Again, in our investigation of sister-state laws, the Wisconsin Administrative System, whereby the Wisconsin Department of Industry, Labor and Human Relations (DILHR) closely monitors the delivery of benefits, is very enticing. DILHR takes a very strong and fair role in insuring that all parties in the system live up to their responsibilities in delivering benefits and in seeking a request for benefits. As a result, we believe that when the new administrative system is adopted, it be patterned after the Wisconsin system which incorporates the goals and responsibilities under which that system operates.

5. LITIGATION REDUCTION

Another critical issue that a new system in Maine must incorporate is the goal of reducing controversy between the parties. As mentioned above, the utilization of a "benefit schedule" much like Wisconsin's is a simple means of reducing tremendous amounts of controversy between the parties involved in a workers' compensation claim. Such a system provides easy and predictable rights and responsibilities, thereby reducing points of controversy that currently arise in our present system. Further, a Wisconsin-styled administrative system, which takes an active role in pursuing the rights of injured workers and, has as its goal the utilization of the legal system only as a last resort when securing compensation benefits, also will reduce litigation. The new system in Maine must provide administration of the system so that injured workers do not need the services of attorneys and that discourages the areas of flashpoint whereby a party feels the need for the services of an attorney. Determination of medical issues by medical professionals, rather than through litigation, would also reduce a major source of friction. We would also encourage the utilization of alternative dispute resolution such as mediation and arbitration, which should further reduce the need for a formal, legal process. Finally, we believe that attorneys' fees awarded in a case be paid out of the award of benefits, as is done in the vast majority of states. All these issues, taken together, will effectively and appropriately reduce the need for attorney involvement without erecting a barrier to attorney services when such services are needed.

6. MEDICAL COST CONTAINMENT

We believe that the continued utilization of fee schedules, independent medical examiners and medical records reporting requirements, contained in the current Maine law, are very appropriate. We strongly believe that incorporation of all medical costs containment measures, including the use of preferred provider arrangements (PPOs) and other innovative arrangements be authorized and encouraged to provide the delivery of medical services at the least cost possible to the parties. We believe that the current fee schedule ought to be finally updated so that all appropriate medical procedures be included with it. We believe also that utilization reviews and protocols be developed and implemented under the new law. As you have discovered, medical costs increases are one of the driving forces to rising workers' compensation costs. As a result, this issue must be given serious deliberation.

7. ADVISORY COMMITTEE

We strongly encourage the incorporation of an advisory committee made up of labor, management, and insurers to monitor the workers' compensation system. We believe that the models of Wisconsin-Michigan can be adopted within Maine to give various parties a voice in providing direction within the system. We strongly believe that insurer participation be included in these advisory committees. We believe that legislation ought to be filtered through such panels. We hope that such an advisory committee will greatly reduce the
Letter to Members of the Blue Ribbon Commission

June 22, 1992

Page: Seven

number of proposals that the Maine legislature faces each year regarding workers' compensation, thereby restoring greater stability to the market. Moreover, it should create an arena whereby all parties can discuss issues of concern, further reducing the antagonistic nature that has unfortunately grown in Maine within the last two decades. We believe that the success evident in Wisconsin and Michigan with these advisory panels will also be found if adopted here in Maine.

8. COST

The aggregate cost of Maine's workers' compensation system must be brought down. If Hanover were purely self-interested, the cost of the system would be irrelevant as long as we were able to collect appropriate premium. But we are a Maine business, and as such, recognize the critical need to make the system affordable. We must make Maine business competitive. Even if the previous seven areas are addressed, the cost of the system must be brought into line. This must be a critical goal of the Commission if your recommendation is to be accepted by the Legislature and the People of Maine. Further savings beyond those realized from the seven issues raised above may be achieved through limiting accessibility to the system and reducing benefits awarded to claimants. Regardless of how savings are achieved, the Commission must bring down the cost of Maine's system.

I know these eight areas are wide-ranging, but they address the serious concerns we have with the current Maine system. As we testified, we wish to be able to continue our leading role in the Maine workers' compensation market into 1993. We will be able to do so only if these critical areas are appropriately addressed.

We look forward to working with you on these issues and in exploring in further detail the solutions to resolving the issues incorporated under each of these particular areas. Please feel free to call me at any time to respond to any of your questions which this letter raise.

Sincerely,



Lincoln J. Merrill Jr., CPCU
President
Hanover of Maine, Inc.

Letter to Members of the Blue Ribbon Commission

June 22, 1992

Page: Eight

LJM/a

cc: Governor John R. McKernan, Jr.
President Charles P. Pray
Speaker John L. Martin
Superintendent Brian Atchinson
Representative Peter Hastings
Representative Sumner Lipman
Senator Judy C. Kany
Representative Elizabeth H. Mitchell
Senator Donald Esty

OUTLINE OF PRESENTATION TO
THE BLUE RIBBON COMMISSION ON
WORKERS' COMPENSATION
REFORM

William P. Hardy, Esq.
Hardy Wolf & Downing, P.A.
186 Lisbon Street
Lewiston, ME 04243-3065

Member -- Workers' Compensation Section --
Maine Bar Association

I. Introduction

II. Dispelling Myths

Important to act on fact -- not myth.

1984 Act: 49,214 1st Reports 1983; 63,838 1984: 29.7% increase (WCC-
TRI-Agency Ann. Report 1992)

Myth #1: Workers' compensation is a "grave train".

- A. Most injured workers return to work shortly afterwards. Those who can't want to.
- B. Most Petitions for Review are granted whether employees can work or not.
- C. Publicity adds to stigma.

Myth #2: Fraud is rampant in the system. The "Willie Horton" approach to lobbying.

Myth #3: Litigation drives the system.

- A. Tiny percentage of cases are litigated--about 8% in 1990 of the wage loss cases resulted in formal petitions and one-half of those were dismissed.
- B. Litigation mostly result of legitimate disputes.

Myth #4: Lawyers are responsible for large amount of cost.

- A. Actually 5.4% on both sides (23% for medical cost). Thus 5% were formally litigated (WCC records). Adjusters expenses, by contrast, were 5.9% (NCCI 12/90 Rate Filing)
- B. Lawyers only involved in cases with litigation.
- C. Lawyers do adjusters work.

Myth #5: Lawyers for employees are on a gravy train.

- A. 20 - 50% reduction in fees in seven years.
- B. No payment before informal conference: No payment when losing (employer's counsel does get paid).
- C. Most lawyers can no longer afford to do comp.
- D. No payment before informal conference: No payment when losing (employer's counsel does get paid).
- E. Many types of cases firms can no longer handle.
- F. Social opprobrium.

III. The major problem with the system

- A. Politicizing of the system--the major problem with the workers' compensation system is that it has been delegitimized.

Refusal to accept comp as a cost of doing business, such as social security or taxes.

- B. Uncertainty of risk -- both for insurance companies and for employers.

1983, 1984, 1987, 1991 amendments.

C. Denigration of system results in unwillingness to work out long-term solutions -- everything is tentative.

D. System is a victim of political success of insurance companies. Threatening to leave state since 1983. See Massachusetts experience.

all states same?

IV. Need for procedural safeguards -- perceived and actual fairness.

A. Cultural bias against delay (meaning lawyers) individual need vs. cultural denigration.

B. Criminal justice system vs. civil justice system vs. comp.

C. Pretending there is no conflict.

D. Pipe dream to think average worker can resolve issues with adjusters. Typical case: notice, causation, AWW, extent, work search. Either insurance company accepts every claim, worker accepts every denial or there is litigation.

E. Litigating portion works well compared with Superior Court.

F. Constitutional guarantees.

V. MAJOR NEED -- Stability and predictability

A. Knowing what to underwrite.

B. Accepting legitimacy of comp as a business expense.

Same as above?

VI. Reforms

A. Removing small claims from the system. Petition to Fix where compensability not an issue.

B. Mandatory rehabilitation.

2/3 say no help?

C. Levelling playing field--Employees and Employers treated the same.

D. Study of self-insured claims experience vs. insured to see what works.

E. Mediation with both parties represented with authority.

F. Medical cost containment.

Am 8/1

Testimony of
Dr. Leonard G. Saulter
Before the Blue Ribbon Commission
Re: Workers' Compensation
Reform, 1992

1

1 Good afternoon, my name is Dr. Leonard Saulter. I am President of
2 the Maine Chiropractic Association and I have a chiropractic office
3 in Falmouth, Maine. Thank-you for the opportunity to speak with
4 you this afternoon about the complexities and the cost of workers'
5 compensation in the state of Maine.

6 Today, I am actually wearing three different hats representing the
7 Injured, the Employer, and the Workers Compensation Advisory
8 Committee.

9 First, as a licensed Chiropractor I have been treating
10 injured workers in Maine for the past ten years. Additionally, I am
11 a certified Occupational Consultant providing cost saving health
12 and safety programs for a number of Maine companies. I am also
13 affiliated with national organizations which provide cost
14 containing programs for fortune five hundred companies and
15 insurers nationwide. Finally, as a member of the Workers
16 Compensation Advisory Committee, I am current with the present Comp
17 Law and the changes which are being implemented as a result of 1991
18 legislation.

19 As a result of my multi-level involvement treating injured workers,
20 consulting with industry and insurance carriers, and my
21 understanding of the recent changes in the compensation system, I
22 have had the opportunity of viewing the workers compensation system
23 from varying perspectives.

1 It is very clear that compensation costs are artificially high
2 because the benefits delivery system is driven by uncontrolled and
3 inconsistent medical/legal reporting practices, loose disability
4 evaluation standards and inflated litigation costs spawned by an
5 incestuous and adversarial workers compensation system.

6 Underlying all the complexities of the workers' compensation
7 system and its inherent problems is a very important and revealing
8 fact. "If workers aren't on the job, business simply doesn't work."
9 Ultimately, keeping employees on the job will impact a companies
bottom line, its productivity and its profits.

11 Therefore, more than anything else, the results of any workers'
12 compensation reform should emphasize that the individual worker be
13 safe, healthy, and on the job as much as possible.

14 Our job here today is to assist you, members of the Blue Ribbon
15 Commission, to understand the factors contributing to the
16 escalating costs of industrial injuries and describe how you can
17 know, based upon tested cost saving programs, which solutions are
18 necessary to rectify what many now call an inflationary nightmare.

19 The bad news is that there are some very grim statistics both here
20 in Maine and throughout the United States. For example:

1 It's estimated that over 600 million work days a year can be
2 attributed to pain of which backaches account for 60%.

3

4 Approximately 45% of all workers injured on the job have been on
5 the job less than one year.

6 There were One Billion Spinal related injuries in the 1980's
7 alone.

8 These statistics and the problems of the workers' compensation
9 system can be summarized by reviewing the experience of a large
10 westcoast employer. In 1981, South Pacific Railroad spent just shy
11 of 400 million dollars of which 26 million was for medical bills,
12 70 million was for legal fees, and 300 million was for employee
13 disability.

14 New statistics indicate that America spent 550 billion dollars in
15 health care which will increase to one trillion dollars by 1995 and
16 yet our population has not significantly increased. This suggests
17 that our present methods of care focus on problems only after the
18 fact.

19 The good news is that workers' compensation costs are very

1 sensitive to performance and improvement. This fact has been proven
2 over and over again by aggressive fortune five hundred companies
3 such as Weyerhauser, Conagra, Cheseborough Pond, Home Depot and
4 many other companies nationwide. More close to home, the success of
5 the self-insured and a growing list of other smaller progressive
6 Maine companies provides examples of how too control the escalating
7 cost of industrial injuries.

8 For clarification, let's take a closer look at what a typically
9 sized Maine company with between 25 and 50 employees was able to do
10 in less than two years time.

11 In 1988-1989, the Portland Fish Exchange paid approximately
12 \$130,000.00 for medical costs.

13 In 1990, just six months after implimenting a self administered
14 employee Health and Safety program, medical expenditures were
15 reduced to \$60,000.00.

16 In 1991, medical expenses for employee injuries were reduced to
17 approximately \$35,000.00.

18 This success story is not an isolated occurance. Similar results

1 have been obtained by many other companies in Maine including both
2 the independently insured and the self-insured.

3 If these types of cost saving results can be reproduced over and
4 over again, wouldn't it be wise for the workers' compensation
5 system to model the successful strategies already being employed by
6 a number of Maine companies? All that was done in the particular
7 case described above can be summarized as follows:

8 I. Reduce a workers exposure to injury

9 II. Employer preparedness through self reliance

10 III. Active employer/employee participation

11 At this point, I could put on my "chiropractic hat" and review with
12 you the multitude of studies documenting the cost effectiveness of
13 conservative Chiropractic treatment, however, this would be time
14 consuming and possibly disserving to the purpose of this group.
15 Instead, let's just summarize and acknowledge the fact that
16 Chiropractors treat approximately 20% of all musculoskeletal
17 injuries and that independent studies prove their ability to return
18 the injured employee back to work faster than all other health care
19 providers. Additional documentation regarding the cost
20 effectiveness of Chiropractic care has been included at the end of

1 this testimony for your review. These include, but are not limited
2 to, the summary of a major study printed in the Western Journal of
3 Medicine in 1991, the British Medical Association Study, and the
4 1988 Florida Workers' Compensation Study.

5 Now, in an effort to assist this group with its difficult task, I
6 would like to take a minute to review a couple of graphics which I
7 have prepared for your consideration. This material summarizes the
8 "horrors" inherent with the inadequacies of the old workers'
9 compensation system and provides some key solutions which must be
reinforced with any overhauling of the present system.

11 You should all have before you a graphic portraying the
12 "INFLATIONARY PRESSURES" inherent in the present workers'
13 compensation system. These include but are not limited to liberal
14 disability awards, physician competition, rehabilitation costs,
15 litigious atmosphere, defensive medicine, and the costs of modern
16 medicine.

17 Next, you should have a picture of a molecule which portrays this
18 inflationary nightmare as a cancer to industry as well as several
19 of the programs that have been designed and proven to overcome it.

1 These programs include safety and loss prevention to reduce a
2 workers exposure to injury before it happens; medical case
3 management through employer preparedness and self reliance; and a
4 proactive employer participation program.

5 Finally, to summarize and to simplify this seemingly complex
6 formula, I have prepared two additional graphics titled "THE HORROR
7 STORY" and "THE HAPPY ENDING", which illustrate the problems and
8 provides some answers to developing a comprehensive strategy to
9 controlling the inflationary tendencies of the workers'
10 compensation system.

11 For instance, unless you approach the workers' compensation arena
12 with knowledge and planning, it can be a horror story. Here is an
13 altogether too common situation. The Dumb Company Inc./Workers'
14 Compensation System and the Zombie Insurance Co. actually cause or
15 atleast allow much of the work comp problem. It is not that the
16 company is dumb, it is just that they don't understand what is
17 taking place nor do they treat people like they want to be treated.
18 Everyone wants to be loved, appreciated and approved of. When a
19 company does not participate in the management of the individual
20 worker's injury, they feel like they are treated like a piece of
21 meat and that no one really cares. In fact, did you know that

1 statistics show a 50% reduction in litigation if the injured worker
2 is simply called to find out how he/she is doing and when he/she is
3 going to be able to return to work. Additionally, untrained
4 companies don't limit the injured worker's exposure when they
5 return to work. They are immediately returned to the same job where
6 their chances of reinjury are very likely within a few days or
7 weeks.

8 Then we have the Zombie Insurance Co. who does not communicate with
9 anyone. They have untimely benefits and they have a reactionary
10 policy. Basically, the Zombie Insurance Co. is an investment
11 banker. They thrive on inefficient systems which help to drive the
12 costs of premiums up. They don't communicate and they don't send
13 the disability checks to the injured worker in a timely fashion. As
14 a result, now the injured worker, being upset, finds an attorney
15 who in turn sends him/her to a doctor (M.D., D.C., D.O.) who may
16 not be trained in workers' compensation thus driving those medical
17 bills up even further.

18 The doctor may use the shot gun approach which we call
19 defensive/offensive medicine. This means that although the injured
20 worker's shoulder injury is probably a simple strain, it could
21 possibly be a heart problem or cancer and therefore needs to be

1 checked out thoroughly. Therefore, you need a neurologist, an
2 orthopedic surgeon, a psychiatrist, an internist and a
3 chiropractor.

4 In addition, there are liberal temporary/total disability
5 recommendations meaning that the individual may be off work for 2-6
6 months. If the doctor is not properly trained in work comp
7 procedures, it further confuses the issue because now the Zombie
8 Insurance Co. does not understand or want to understand a thing
9 that the doctor is trying to say. For example, he treats outside
10 the area of the injury. Not only does he treat the shoulder pain
11 that occurred on the job but also treats the neck, back, and knee
12 pain and any other injuries that may be totally unrelated to the
13 work injury. He may provide elaborate treatment programs that go
14 way beyond the pre-injury level of pain. The doctor may also be
15 unfamiliar with the employees work place and with the disability
16 terminology required to communicate with the employer and the
17 insurance carrier.

18 Ultimately, all this inefficiency can result in litigation in which
19 Applicant and Defense doctors are engaged to perform I.M.E.
20 examinations costing between \$500.00 and \$1500.00 each. The Defense
21 doctor states that nothing is wrong and the Applicant doctor states

1 that everything is wrong. They in turn are then sent for A.M.E.
2 which costs another \$1000 and ultimately the patient never goes
3 back to work. Adding to the cost picture is future medical and
4 vocational rehabilitation costs. In the end the worker goes away
5 unhappy, the Dumb Co. Inc. suffers as company profits are reduced
6 and the only people who win are the Zombie Insurance Co., whereby
7 your insurance premiums go up, the doctor, and the attorney. This
8 is why I have called this situation a "horror story".

9 Unique to more progressive companies are self managed injury
10 prevention programs. These typically consist of medical management
11 and health and safety programs which prevent the sequence of events
12 discribed above from ever unfolding. This results in what I have
13 portrayed as a "happy ending". In this scenario the Smart Company
14 has taken steps to prevent the injury. If an injury occurs, the
15 employer participates in the case management. The doctor is
16 encouraged/required to participate in the medical case management
17 by reporting to both the employer and the insurance carrier in a
18 specified and timely fashion. The company or compensation system
19 then requires the insurer to communicate openly and provide timely
20 benefits.

21 Finally, the system does not tolerate elaborate and costly
treatment programs which exceeds M.M.I. Additionally, I.M.E. and

1 utilization review findings become binding. As a side note, you may
2 be happy to know that as a result of 1991 legislation and under the
3 leadership of Ms. Sandra Hayes and the office of the Medical
4 Coordinator, a new "Medical Management System" has been developed
5 which should address the M.M.I. and I.M.E. dilemma.

6 Ultimately, what happens here is that the injured worker is
7 returned to work as quickly as possible thus minimizing expences
8 and protecting company profits.

9 So, in summary I have attempted to provide this panel with tested
10 and successful protocols which the workers' compensation should
11 model if it hopes to curb the inflationary tendancies of the
12 present system.

13 In conclusion, I hope the materials and the information that I have
14 provided is helpful and I wish you the best of luck with this
15 unenviable task. Once again, thank-you for your time and attention.
16 I would be happy to answer any questions for you at this time.

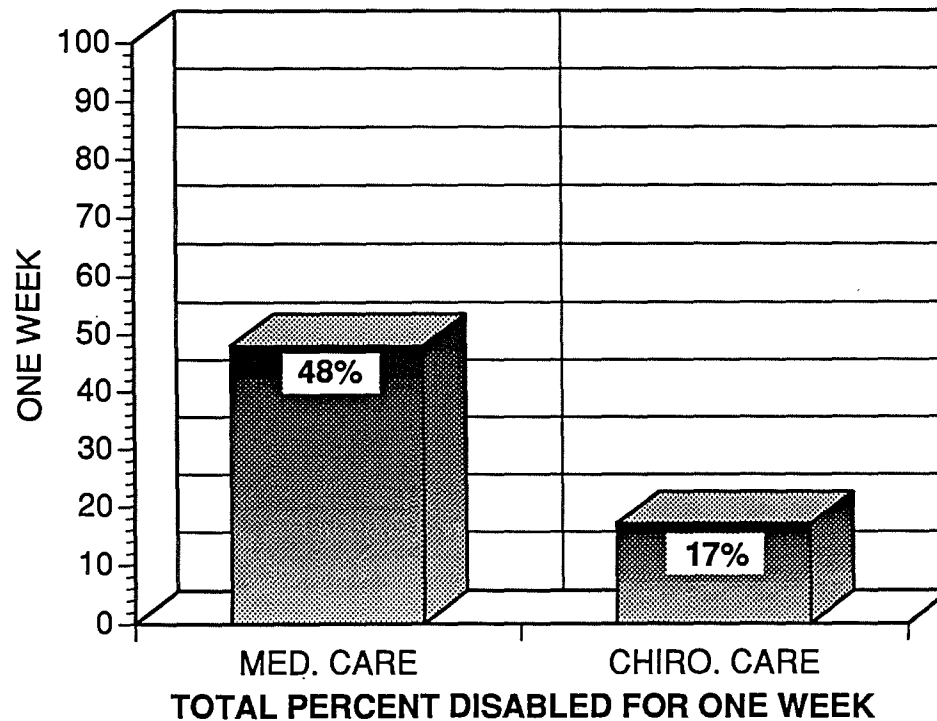
British Study Verifies Chiropractic Cost Effectiveness

**Research Studies Suggest in Britain Alone Chiropractic
Care Could Save...**

- \$21.5 Million Dollars in Health Costs
- \$4.8 Million Dollars in Social Security Payments
- 290,000 Days in Disability Absence over a 2-Year Period
of Time

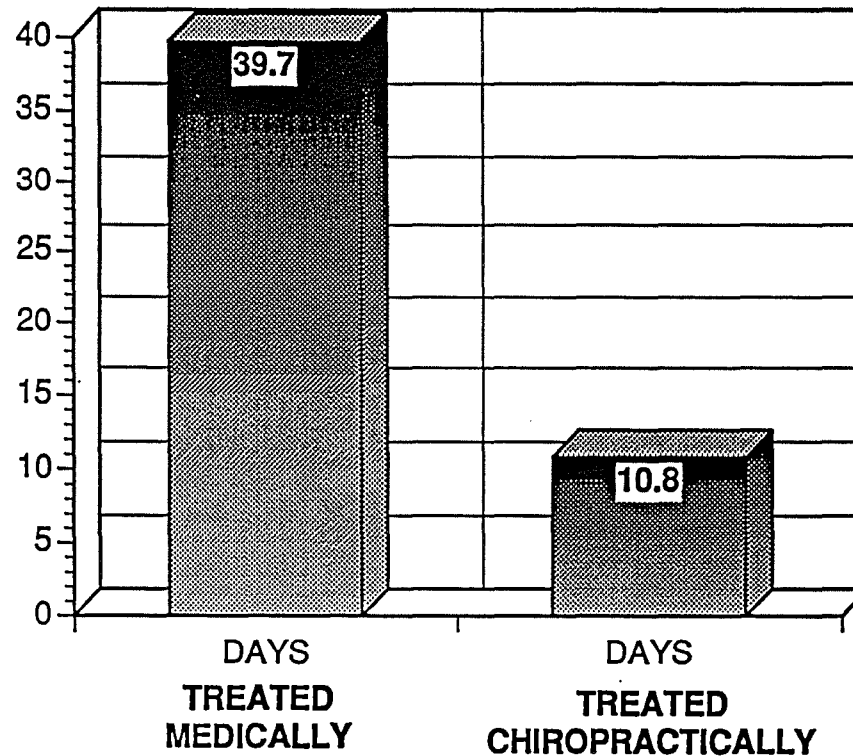
Source: British Medical Journal; June 2, 1990

Number of Patients Disabled For One Week Due to Back Pain



Source: Western Journal of Medicine; 1989

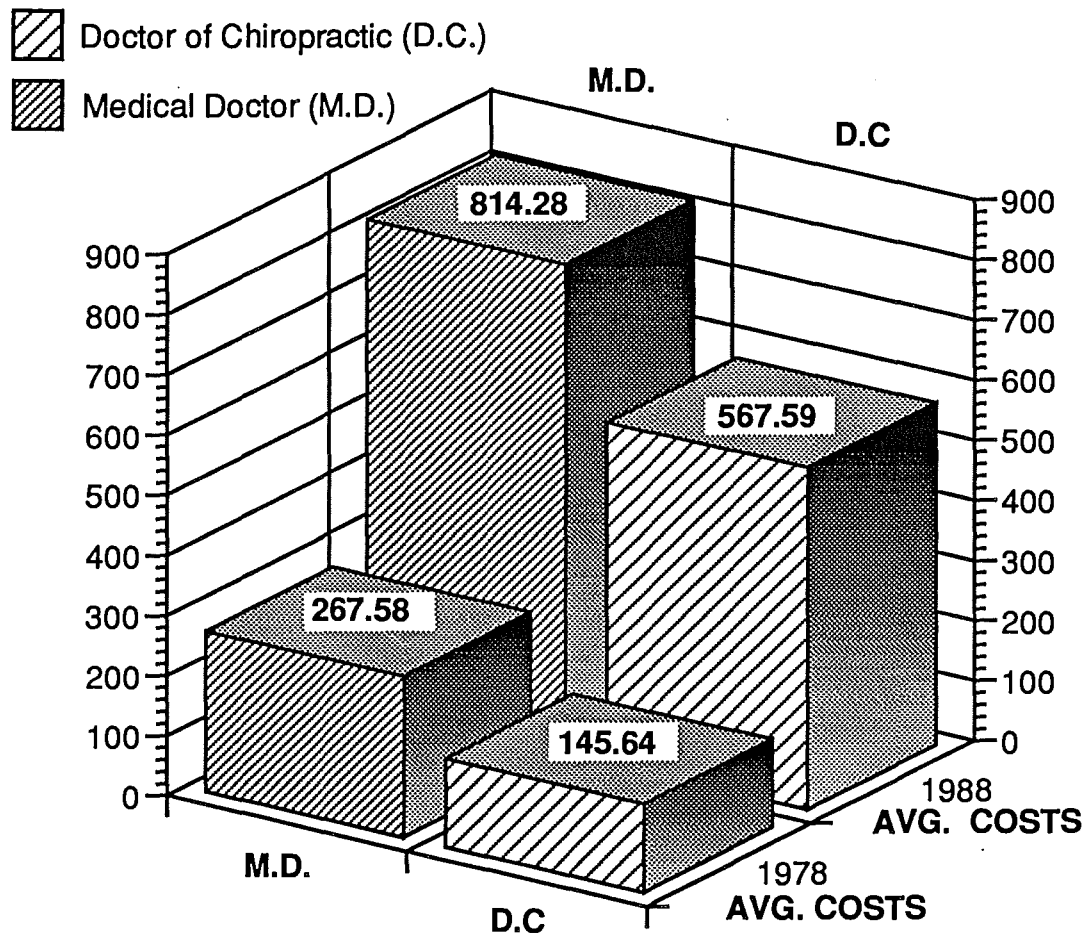
Study Confirms Chiropractic Services More Effective For Back Pain



Recovery Time For Back Pain to Normal Activity When Treated Medically and Treated Chiropractically

Source: Western Journal of Medicine; March, 1989

Comparison of Health Care Expenses

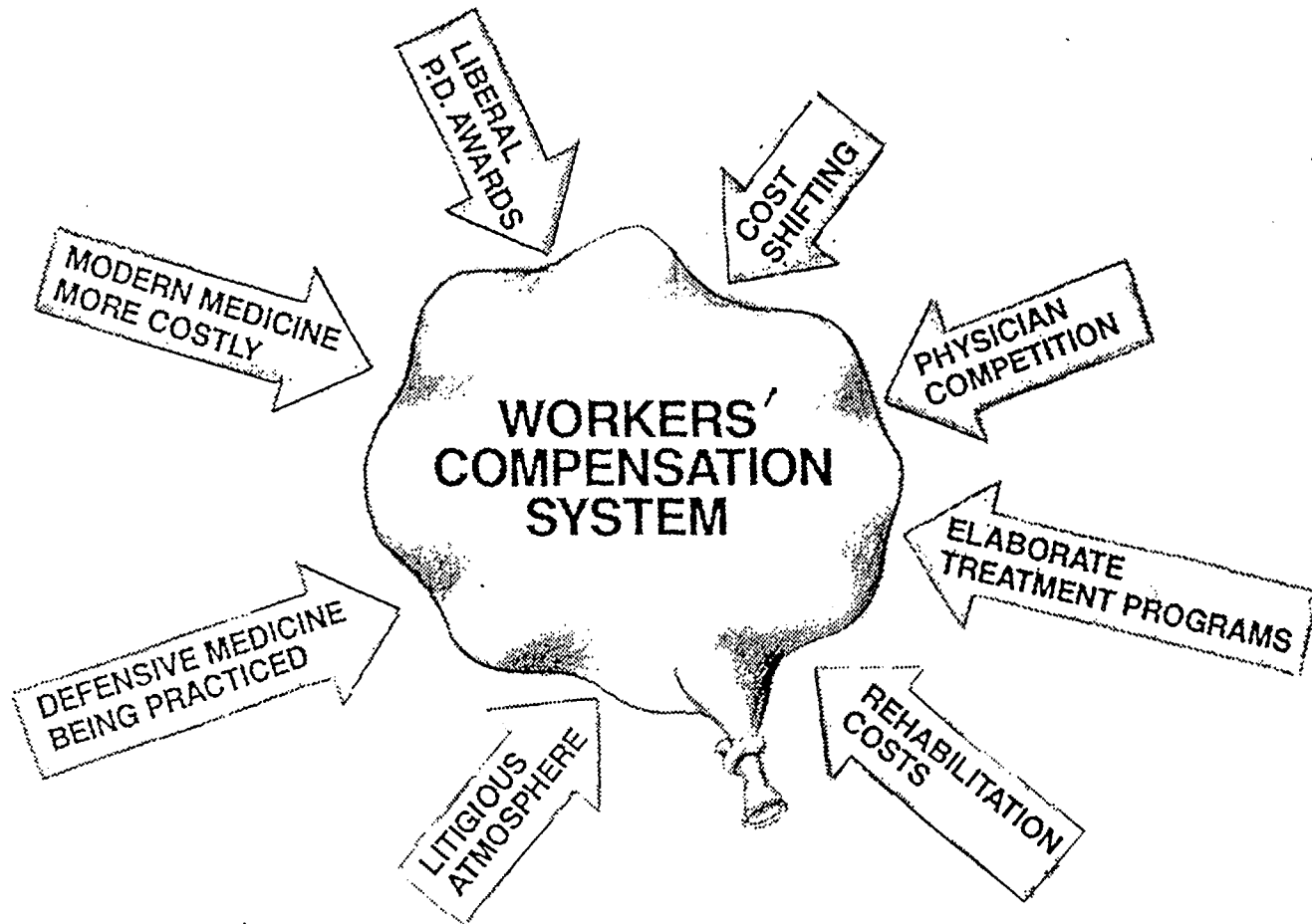


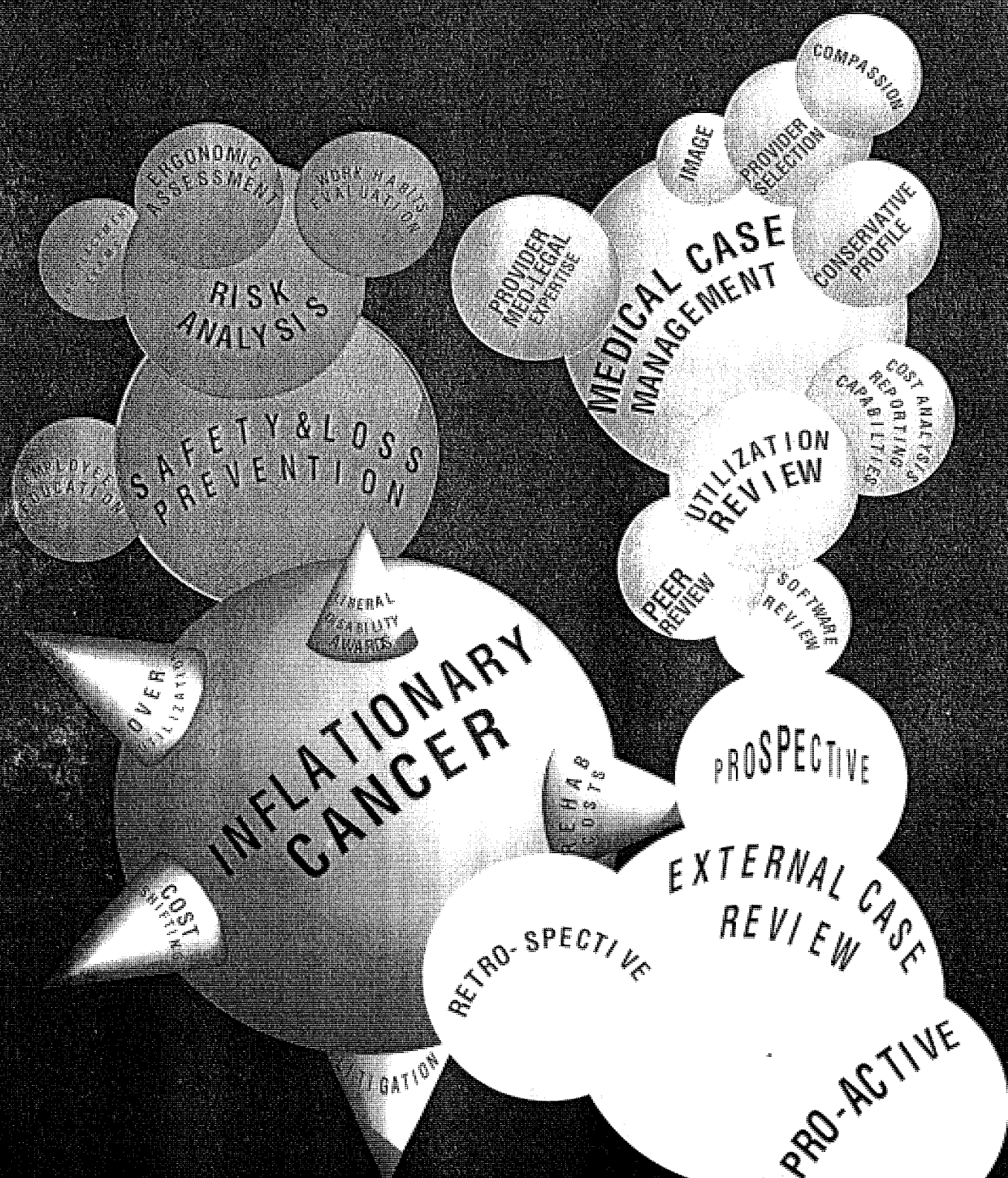
Figures compare health care expenses for workers under care of chiropractors (D.C.) and M.D.'s (from the 1978 Wisconsin study of industrial back injury, based on information from the Wisconsin Bureau of Research and Statistics).

Figures also compare average cost of services for patients with back-related injuries, excluding those requiring surgery (from the 1988 Florida study of workers' compensation medical claims for 50,396 patients by Steve Wolk, Ph.D.).

The Florida 1988 study showed that patients under chiropractic care had a lower rate of compensable injury and were less likely to be hospitalized for treatment than those treated by M.D.'s. The average cost of all services per patient was also significantly lower for chiropractors. (See Graph)

INFLATIONARY PRESSURES





COST CONTAINMENT

a complex formula

"THE HORROR STORY"

DUMB INC.

CHARACTERISTICS:

- Does Not Attempt to Limit Exposure
- Does Not Participate in Case Management

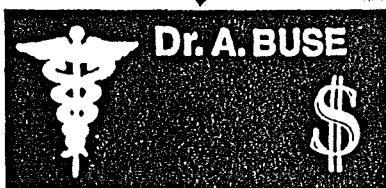
ZOMBIE INSURANCE COMPANY

CHARACTERISTICS:

- No Communication
- Untimely Benefits
- Reactionary Policy

APPLICANT ATTORNEY

INJURED EMPLOYEE
Self-procured Treatment



Dr. A. BUSE

CHARACTERISTICS:

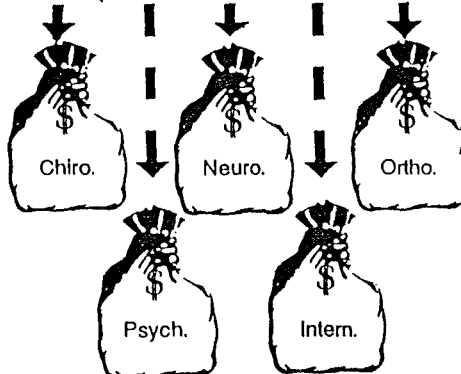
- Not Savvy/Applicant Savvy
- Liberal with T.T.D.
- Treats Outside Area of Injury
- Treats Beyond Pre-injury Complaints
- Elaborate Treatment
- Unfamiliar with Disability Terminology
- Doesn't Communicate

LIBERAL T.T.D. RECOMMENDATIONS

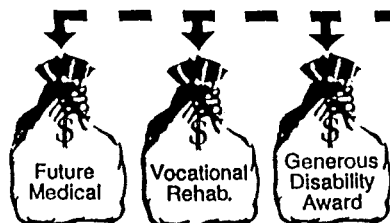


DISPOSITIONS

SHOTGUN APPROACH
(Defensive/Offensive Medicine)

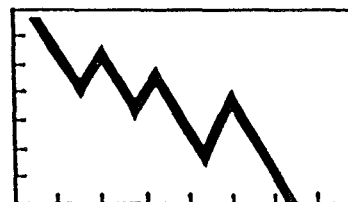


UNHAPPY UNPRODUCTIVE DISABLED EMPLOYEE



MAXIMAL Experience Modification Factor — Inflated Premium

COMPANY PROFITS



CHAPTER 11

"THE HAPPY ENDING"

SMART INC.

CHARACTERISTICS:

- Does Not Rely on Carrier
- Actively Participates in Case Management

WINNING INSURANCE CO.

CHARACTERISTICS:

- Communication
- Timely Benefits
- Implements Cost Containment Mechanisms

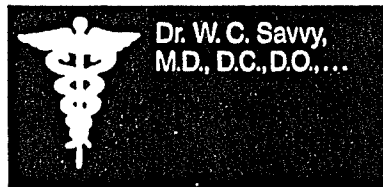


INJURED EMPLOYEE

MEDICAL MANAGEMENT SYSTEM
Requiring 5 day, 30 day,
90 day reporting to
employer and insurance
carrier

CHARACTERISTICS:

- Utilization Review
- Binding I.M.E.'S



CHARACTERISTICS:

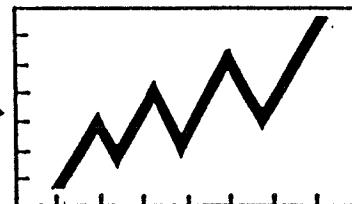
- Conservative Practice Style
- Familiar with Disability Terminology
- Employer Advocate
- Able to Identify and Differentiate Pre-injury and P&S.
- Compassionate Care
- Recognizes M.M.I.

HAPPY, HEALTHY
PRODUCTIVE
EMPLOYEE



MINIMAL Experience
Modification Factor
— Deflated Premium

COMPANY PROFITS



INFLATIONARY NIGHTMARE

I) INFLATIONARY PRESSURES

- A) Physician competition
- B) Elaborate treatment programs
- C) Modern medicine more costly
- D) Litigious atmosphere
- E) Defensive medicine being practiced
- F) Rehabilitation costs up
- G) Permanent disability awards too liberal

II) HOW TO REDUCE COSTS

A) Reduce exposure

1. pre-placement screening
2. injury prevention through education
3. ergonomic assessment of the workplace

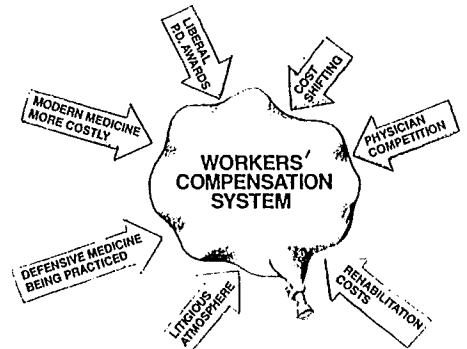
B) Employer preparedness

1. Choose a winning carrier
 - a. timely benefits
 - b. policy of communication
 - c. understands your needs/cooperation
2. Know your rights under labor law
3. Select your designated physician wisely
 - a. image
 - b. conservative practice style
 - c. workers' compensation sophistication
 - d. participant in medical management program
 - * mandatory reporting
 - * utilization review
 - e. employee compassion
 - f. employer advocacy
 - g. quality care

C) Employer participation

1. Communicate with employees
 - a. show concern/compassion
 - b. follow up!
2. Consider modified work
 - a. psychologically it is productive
3. Avoid litigation
 - a. How? All of the above

INFLATIONARY PRESSURES



In conclusion, Take Control Now! Assess your current carrier, investigate and choose your legal representation, reduce exposure to injury, communicate you care and take an active part in the management of the case.

LABOR MANAGEMENT GROUP
BRUNSWICK INDUSTRIAL PARK
9:30 a.m. - July 8, 1992



My name is Ralph Tucker, Chair of the Maine Workers' Compensation Commission. I have been on the Commission 11 years, and I have been Chair for 6 years. I was first appointed by Governor Brennan, and I was reappointed as Chair by Governor McKernan in October 1990.

Because the Blue Ribbon Commission has started making critical decisions about the future of Maine's workers' compensation system, it is now an appropriate time to focus more closely on how disputed claims are administered within the Workers' Comp Commission, and how government administration can be approved.

Government only small part of the WC system. WCC not WC system.

I would like to focus on the administrative structure of the Maine agency; the evolution of the various units within the agency; administrative issues which have occupied this agency; and, lastly, discuss transition issues in the months ahead which will require an extraordinary amount of work at the nuts and bolts administrative level.

This agency can help significantly in the transition to a new workers' compensation system.

1. Administrative Structure

Title 39 authorizes a Workers' Comp Commission of 12 Commissioners whose statutory duty is to resolve disputes as efficiently and fairly as possible. It is an independent agency within the Executive Branch. They are appointed by the Governor, with review by the Judiciary Committee. They must be experienced in the law, and they serve 6 year terms. Administrative authority and procedural rulemaking are the responsibility of the

Chair with the advice of the Commissioners. The Chief Legal Counsel keeps a log of rule proposals and changes, and oversees compliance with the APA.

There are currently 111 employees of the agency, including the 12 Commissioners. Budgetary cuts over the last two years have required 6 layoffs and the total elimination of 13 positions, or 10% of the agency. The Chair directly oversees 4 administrative units: Administrative, Appellate, Vocational Rehabilitation and Office of Medical Coordination.

The FY '92 budget is about \$5.4 million. It will be the same next year, a no growth budget. The legislature has provided partial funding for the Commission by an assessment, in response to the DeCarlo report of 1991, which recommended dedicated funding for the agency. The assessment raised \$2.26 million in the Fall of 91. Although the legislature adopted the idea of an assessment on employers, however, it did not make these revenues dedicated to the operation of the Workers' Comp Commission. The assessment goes to the General Fund, and we are dependent on the appropriations process to have these funds allocated to the agency. The DeCarlo report also includes detailed charts and a description of the administrative functioning of the agency.*

2. Evolution of the Agency

The evolution of the Workers' Comp Commission gives insight and understanding of the current administrative structure. Much of the evolution of the agency here in Maine parallels the evolution of workers' compensation agencies in other states.

In the late 1970's, the Commission was a tiny agency with part-time Commissioners, who were allowed to practice law on the side. They traveled around the state with files in the back seat of their cars and clerical support, by mail, was supplied by a

small group of clerical employees in Augusta. It was called the Industrial Accident Commission. The Commission has a historical summary of all the Commissioners back through 1915, with the biographies and terms of all Commissioners.*

In the early 1980's, Commissioners became full time and were set on the same pay scale as District Court Judges. The number gradually grew from 4 part-time Commissioners to 12 full-time Commissioners as the duties of the Commission expanded. The Commission has a print-out which chronicles the addition of positions over time since 1963.*

Along with the introduction of full-time Commissioners, additional duties were added. The earliest addition was the Appellate Division. The Law Court in the early 80's had 25% of its docket composed of workers' compensation appeals. By setting up an Appellate Division within the Commission, the Law Court was able to remove this significant group of appeals and then take appeals from the agency only at their discretion. The Appellate Division of this agency now handles all appeals and reviews cases only for mistakes of law, and does not review the factual determinations of the fact finders. This is the method of appeal recommended by the American Insurance Association and adopted in Rhode Island, Massachusetts, Connecticut and a number of states across the land, including, in part, Michigan. Appeals are heard by panels of three Commissioners, and relatively few cases are taken into the court system.

The major structural change affecting the size and nature of the agency took place in 1984, when the direct pay reform was passed, in response to a study of the agency by the Speaker's Select Committee.* The direct pay reform partly abolished the agreement system and established a system of mandatory informal conferencing.

Employees are assisted by a staff of employee assistants in the Office of Employee Assistants. The statute required the staffing of five regional offices in specified counties - Aroostook, Penobscot, Kennebec, Androscoggin, and Cumberland.

The administrative problems in setting up this new expanded Commission and informal conference process were great. The first problem was how paperwork should be filed, how computer support should be set up, and how supervision should be maintained in the regional offices. These difficulties were ultimately solved by requiring that all initial filings be made in Augusta, where initial distribution and data input could be controlled by a specialized staff. Disputes are assigned to Commissioners based on the residence of the employee. The geographic "venue" or catchment area for assignments can be adjusted when the number of assignments are out of whack. We have central filing and file storage at the central office. Regional offices only get files when something is in dispute.

The computer support of our initial computer in 1984 proved inadequate, and so we have completed migration to a Honeywell computer which cost the agency almost \$500,000. Cases are electronically assigned and entered, and hearing notices can be sent automatically upon scheduling. Location of files are also logged on the system. The migration to the Honeywell was completed two years ago, and we have just finished paying for this computer.

The supervision problem was resolved by creating the position of Regional Manager for each regional office. This removed administration from the hands of Commissioners, who should not be bogged down with minor administrative and personnel problems, and allowed better centralized control over procedures statewide.

We also again initiated the publication of Maine's statute in a paperback format.

The informal conference process has been studied in great detail. The Commission's most recent study concluded that the informal conferences have provided a much needed forum for adjustment work, and a time and place for contact between adjusters and employees; however, the process has not been shown to reduce litigation in significant cases. Adjusters are often non-committal at the informal conference stage. As part of the reform effort, the informal conference process could be strengthened, and a number of alternatives could be considered.

After 1984, the next major administrative change was the expansion of vocational rehabilitation in 1986. The legislature changed Maine's vocational rehabilitation law to require mandatory rehabilitation evaluations and active agency monitoring of providers of rehabilitation, although the authority to order rehabilitation was initially taken away from the Commission. An elaborate system of deadlines for evaluations was set up to encourage rehabilitation. The agency hired Mike Niss, who was a Vocational Rehabilitation Administrator in Minnesota, and strict regulations were placed on rehabilitation providers to restrain costs. Four Assistant Rehabilitation Administrators plus several clerical and administrative people were hired. During this period, many other states saw sharply increasing costs and runaway costs for rehabilitation, such as Colorado, Washington and California. This did not happen in Maine. Mr. Niss recently took a job running the state of Florida's rehabilitation and medical coordination unit, which employs more people in that unit alone than in our entire workers' compensation agency.

We have lost vocational rehabilitation staff due to the budget crisis, and computer support of rehabilitation activity has fallen down, due to lack of staff. We are planning a study of compliance with the 120 day R-1 filing requirement shortly.

In 1986, the legislature also created an Abuse Investigation Unit which the Commission initially staffed with two investigators. The Senior Investigator, Fred Snowman, had 20 years' experience as an Air Force Criminal Investigator and had worked for NCCI as a field representative to check premium rate classifications. We have lost this position due to budget cuts and are now operating the Abuse Unit with one and a half employees. Anita Colford, a former personnel manager and employee assistant, is running the unit. Monthly reports are issued by this unit.* The vast majority of complaints are caused by non-payments in cases where benefits have been specifically ordered by the Commission but not paid. The Abuse Unit collected \$189,000 in fines in FY '91 and \$104,000 in fines in FY '92 for late payments. This has been an efficient and well-run part of the Abuse Unit which works well. This authority was removed in 1991 for new injuries, despite an efficient unit, and the job was sent to the Bureau of Insurance.

The Abuse Unit has also investigated a number of complaints of employee fraud and lack of coverage, which have been referred to the Attorney General's Office.

The most recent administrative addition to the Commission has been the Office of Medical Coordination in 1991. This part of the agency was authorized on October 17, 1991, and the Governor appointed Sandra J. Hayes as Medical Coordinator in November. Sandra comes to us from Hanover Insurance where she worked as their Medical Coordinator. She is also an orthopedic nurse. Medical rules are now being reviewed by the Attorney General. We will shortly be submitting a report to the legislature and Governor on administrative needs in the area of medical cost containment. Many of the reforms in the area of medical cost containment have been enacted without adequate consideration to the agency's role in monitoring and following up on provider performance. Additional staffing will be needed if an expanded and activist agency role is desired in this area. Currently, we have one secretary plus Sandra funded by the legislature for this unit.

3. Administrative Issues

The primary administrative goal is reducing delay in resolving disputes. Most lost time claims are paid voluntarily without state intervention. The speed of payment is measured in days and weeks, and varies from company to company. This can be monitored. See the handout.* Most of the controversy focuses on major cases which are litigated to the end.

The Commissioners have been reducing the delay in litigation. Statistics on delay and number of decisions are kept.* For example, the cases which have been pending over two years have been targeted as a problem area. This backlog has been reduced from 500 to under 200 cases.* We have an experiment ongoing at the present time between Commissioners who prefer to take the employee's testimony and then obtain any needed medical depositions or follow-up testimony; and those Commissioners who find it easier to obtain medical testimony first, and then hear the employee's testimony. The evidence to date shows little difference in the quantity or speed in these two different methods of handling cases. Much depends on the regional considerations, such as the availability of doctors, the level of the caseload, and the discipline of the local Commissioner.

A WCRI study of our hearing Commissioners concluded that the parties expressed a generally high regard for the competence and professionalism of the Commissioners.*

An underlying chronic administrative issue is the proper balance between the Commission's primary goal of dispute resolution vs. the Commission's role in the various regulatory duties which have been placed on the Commission: informal conferencing, regulation of vocational rehabilitation, regulation of medical care, abuse investigation, and data gathering.

This is an interesting issue, which depends on different perceptions of the role of government. The dispute resolution model places responsibility on the two sides; the two sides are presumed to know their duties and responsibilities and the agency simply acts as a neutral dispute resolver, without taking sides and without taking an active role outside the hearing room. The advantage of this model is that it is cheap and durable. Any shortcomings in the process can be blamed on the parties who are ultimately responsible. The parties bear the costs of preparing and presenting their points of view. Non-political.

The regulatory model places more duties and responsibilities upon the government agency. This is a much more costly approach because it requires extensive rulemaking, monitoring and staffing. It also requires that the agency take an active leadership role, and accept responsibility for educating and disciplining all parties. It requires advocating and enforcing certain behavior. In the regulatory environment, when things go wrong, blame is shared by the regulators. More political.

Other ongoing administrative projects are training and data support. The agency conducts an annual seminar so that adjusters can meet Commission staff and others involved in workers' compensation. Private seminars are organized by the Benefits Manager with individual carriers and TPAs. In the past, we have played an active role in the IAIABC with Frank Richards serving on the Statistics Committee, Michael Niss on the Vocational Rehabilitation Committee, and myself on the Adjudication Committee. Unfortunately, budget restraints have prevented our active participation in these contacts with agency staff from other states. Despite a desire to send Commissioners to "adjudication school" for a week each summer, or to conferences out of state, our budget has prevented such opportunities.

We have a syllabus for training new Commissioners, but I usually only get a couple of days with a new Commissioner to review the material. Luckily, most Commissioners are experienced in workers' compensation before they are appointed. Participation in the Appellate Division is, therefore, the basic part of ongoing training and education of Commissioners. More should be done in the area of training and education both for purposes of morale, but also to share ideas and encourage consistency.

In regard to the development of data, our data processing staff has just completed a computerized scheduling process for formal hearings. We did this one regional office at a time to see how it worked. We have now implemented this computerized scheduling system in all regional offices. This means that cases can be electronically scheduled and the hearing notices mailed out automatically. Not only should this make scheduling easier for the clerical staff, once the bugs are worked out, but it will also give us excellent management data.

The Commission has set up multiple advisory groups in different areas, some of which are required by statute, but most not. The Chair runs a lawyers advisory group and an insurance managers advisory group. The rehabilitation unit has its own advisory group, and the Medical Coordination Unit has a medical advisory group. These advisory groups have been of vital importance in developing rules and regulations and maintaining good relations with those who work in this field.

4. Transition Issues

The agency has gone through several serious changes in the workers' compensation system. Many future changes will be beyond the control of the agency, such as the number of accidents, number of claims, and tenacity with which parties will seek legal recourse, rather than self-help through good management practices.

Reduced benefits may lead to reduced claims and litigation. Already, post 1987 claims are settling for much less than earlier claims. Notices of Controversy are down 16% compared to last year, and, over the last 6 months, the backlog has gone down for litigated cases.

This is attributable to the labor market, elbow grease and perhaps the new legal environment.

On the other hand, some cases will be very complex during the transition period, if there are multiple injuries, and we will have to sort out which law applies. One recent note of success has been getting the constitutional challenge to the retroactive fringe benefit repealer in front of the Law Court. The law went into effect on October 17, 1991; the Law Court got the case, and it was briefed and argued in May, six months later.

The 111 employees of the Commission have a lot of experience and talent in their respective duties. We are not hostile to change or reform. In fact, we are often as frustrated as anyone over delays and red tape. Commission employees are not a significant part of the problem; they can be a very significant part of the solution. Many of the goals being sought - faster hearings, more fairness, better communication, cost savings - are things that Commission employees are as eager to obtain as anyone.

Studies have concluded that the Commission is administratively sound. The delays at the Workers' Compensation Commission in disputed cases are not out of line with other states, and are faster than the Court system or with the same Commission several years ago.

Although our informal process could be strengthened, it is already working far more effectively than is usually recognized.

I would recommend keeping a single workers' compensation agency for the resolution of disputes, appeals, and related regulatory duties. No goal would be achieved by splitting the Workers' Compensation Commission into several different agencies, or placing this agency into the Department of Labor.

As Ed Welch of Michigan stated, if he were going to improve the Michigan workers' comp system, he would move workers' compensation out of the Department of Labor and consolidate those functions into one agency. Well, that is what we have now in Maine.

The idea of a labor-management board of directors to oversee the workers' compensation agency would have a number of benefits. It has the potential for de-politicizing the agency's role in this controversial environment. Maintaining an autonomous, non-political agency is absolutely critical to maintain ongoing stability in the resolution of disputed claims.

With the backing and guidance of a labor-management board, the Commission could take more decisive and dramatic steps to attack problem areas. Without backing, an independent agency which is supposed to be neutral and non-political, has difficulty acting aggressively in a political environment.

A board of directors could help the agency personnel better understand the concerns and perceptions of management and labor, and deliver better services. It would also help the labor-management community better understand the administrative problems and assist the agency in running a good program.

Lastly, it is important that full dedicated funding be obtained to run the workers' compensation agency. If a labor-management board of directors is in place to oversee the performance of the agency, it would make sense to have the funding for the agency separate from the general fund mechanism which goes up and down during the fiscal year. This would allow better long-range planning, and allow the Commission to perform its assigned duties as set forth in the statute and as directed by the labor-management board of directors.

Necessary on-going changes in the administration could be made as the labor-management board detected problems and needs.

MEMORANDUM FOR THE COMMISSION

ISSUES PRESENTED

1. Whether a new system of workers' compensation benefits can be made immediately effective.
2. Whether a new system of workers' compensation benefits can be applied to persons who are presently receiving or entitled to receive benefits.

CONCLUSIONS

1. A new system of benefits can by a two-thirds vote of each House of the Legislature be made effective on the date the legislation is signed by the Governor.
2. A new system of benefits can probably be applied to persons who are now receiving or entitled to receive benefits as well as those who become entitled to receive benefits after the effective date of the legislation.

DISCUSSION

1. The Maine Constitution Prescribes the Effective Date of Legislation. Article IV, part 3, section 16 of the Maine Constitution specifies that acts of the Legislature become effective 90 days after the end of the legislative session with one exception. Legislation explicitly addressed to a described emergency and enacted by a two-thirds vote of each House of the Legislature can be made effective as soon as it is signed by the Governor. The Supreme Judicial Court has on several occasions recognized and confirmed the Legislature's constitutional authority to make emergency legislation immediately effective;

Article IV, part 3, section 16 of the Maine Constitution defines the circumstances in which the Legislature may pass emergency legislation and the procedure by which it may do so. Those

provisions limit the use of emergency legislation to emergency situations. The Legislature may well be confronted with emergencies that require immediate action to avoid injury to the State. In such situations, the Constitution gives the Legislature the flexibility to make its measures effective as soon as approved by the Governor. [McCaffrey v. Gartley, 377 A.2d 1367, 1371 (Me. 1977) (citation omitted).]

* * * * *

While the general rule is that legislative acts become law 90 days after the recess of the Legislature in which they were passed, the Maine Constitution provides that emergency measures necessary for the preservation of public peace, health and safety become effective as soon as they are approved by the Governor. In Maine Milk Comm'n v. Cumberland Farms we explained that "[i]n the absence of evidence to the contrary this Court will take the statements in the preamble of legislative acts to be true, and will not substitute its judgment for that of the Legislature." [State v. Eaton, 577 A.2d 1162, 1165 (Me. 1990) (citations omitted).]

No informed citizen would dispute the emergency nature of workers' compensation in this state. Accordingly, if this Commission's proposed legislation is enacted, it will be effective, depending on whether the Legislature enacts it as emergency legislation, either on the day the Governor signs it or 90 days after the legislative session ends. One or the other will be its "effective date."

2. Freezing Workers' Compensation Benefits To Prior Legislation Is A Hold Over From Largely Outmoded Forms Of Legal Thought. One might reasonably think that the Legislature could always change workers' compensation benefits from the effective date of the act onward for all claimants, both those who are already receiving benefits and those who will become entitled to them in the future. That the power to enact laws for the health, safety, and welfare of the people resides in the Legislature, their elected representatives, and is limited only by the constitution are elementary principles of civics.

a. Limitations On The Power Of The Legislature To Affect "Vested Rights." Two provisions of both the state and federal constitutions potentially limit the power of the Legislature to enact laws that have the effect of changing for the future the legal significance of past events (such as, in this case, the legal significance of a workplace injury). Those two provisions are the contracts clause, which provides that "[n]o State shall . . . pass any . . . Law impairing the Obligation of Contracts," U.S. Const. art. I, § 10, see Me. Const. art. I, § 11, and the due process clause, which provides "nor shall any State deprive any person of life, liberty, or property, without due process of law," U.S. Const. amend. XIV, § 1, see Me. Const. art. I, § 6-A.

In an early Maine workers' compensation case the Supreme Judicial Court reversed an award of benefits under an amendment to the workmen's compensation act that broadened workers' benefits and that the Legislature appeared to have intended to apply henceforth to both past and present claimants. The Court said:

If such be the intention of the act it cannot under the plain provisions of both the Federal and State Constitutions be given that effect so far as concerns rights and obligations which accrued before its passage. Our Workmen's Compensation Law is elective. Rights and obligations under it are contractual.

Upon the happening of an industrial accident the right to receive compensation becomes vested, and the obligation to pay it fixed. To change such vested rights and fixed obligations by statute would clearly be to impair the obligation of contracts.

The procedure may be changed if a substantially equivalent remedy remains; but contractual rights that have become vested remain unaffected by the repeal of an old, or the enactment of a new statute, [Gauthier's Case, 120 Me. 73, 76, 113 Atl. 28 (1921) (citation omitted).]

Under that rule the benefits prescribed by law became in effect unchangeable provisions of the contract between employer and employee at the moment of injury when the employee became entitled to benefits. The rule opposed a basic precept

of democracy, namely, the authority of the Legislature to decide questions of the social good. The Legislature could never untie its own hands by restricting or expanding benefits for workers whose right to compensation had become "vested" by injury.

The theory of vested rights was not confined to cases of contract. Courts thought that a legislature's changing a right that had become "vested" by law, not just by contract, might be a deprivation of property without due process of law. So in United States Supreme Court opinions upholding the constitutionality of state workers' compensation acts we find such statements as this one: "The statute, although approved March 14, 1911, took effect as between employers and workmen on October 1 in that year, actions pending and causes of action existing on September 30 being expressly saved. It therefore disturbed no vested rights, its effect being confined to regulating the relation of employer and employee in the hazardous occupations in futuro." Mountain Timber Co. v. Washington, 243 U.S. 219, 235-36 (1917). And this one: "Of course there is no suggestion of a deprivation of vested property in the present case, since the law was passed in April and took effect in September, while the plaintiff's injuries were received in the following December, after he had been notified of his employer's acceptance of the act." Middleton v. Texas Power & Light Co., 249 U.S. 152, 162-63 (1919). That old doubt about whether a legislature could validly enact a law to be effective from then on but affecting previously settled contractual and legal rights gave us our so-called "grandfather clauses,"

Undoubtedly to avoid the constitutional doubt the Supreme Judicial Court prudentially adopted "the fundamental rule of statutory construction strictly followed by this Court that all statutes will be considered to have a prospective operation only, unless the legislative intent to the contrary is clearly expressed or necessarily implied [inferred] from the language used." Miller v. Fallon, 134 Me. 145, 148, 183 Atl. 416, 417 (1936).

b. The Maine Court's Perpetuation Of The Language Of Vested Rights.

In Maine those three lines of thought have become melded, even muddled, into one. While no decision is the sole culprit, Barrett v. Herbert Engineering, Inc., 371 A.2d 633 (Me. 1977), is exemplary. Reviewing a denial of benefits under a statutory eligibility standard that the Legislature had expanded about one month after the worker's injury, the Court applied the old, more restrictive standard and said:

We are aware that effective October 3, 1973 the Legislature . . . has modified the test for determining coverage of injuries under the Workmen's Compensation Act through deletion of the requirement that the injury be "by accident" from section 52 of the Act governing medical and hospital benefits. . . . Since the event with which we are here concerned occurred prior to the change in the statute, we repeat . . . that we need not concern ourselves with the effect of the amendment, as the rights and obligations of the parties are fixed and governed by the statute in force at the time when the alleged compensable occurrence took place. See [citing a string of decisions leading right back to Gauthier's Case in 1921]. Rules of statutory construction would in any event so require in the absence of strong, clear and imperative language indicating a legislative mandate that the new legislation be given retrospective applicability. [371 A.2d at 635 n.1.]

That statement is certainly derived from the theory of vested rights that reaches all the way back to Gauthier's Case. But you can see that it has no analytical content. It avoids analyzing what the Legislature was trying to achieve and whether any good constitutional reason stands in the way. It is pure metaphysics, the empty shell of an old theory. The practical consequence of adhering to it is that we must now have a half dozen or more categories of workers' compensation recipients that are now receiving different benefits depending on the law in effect at the time of their injuries. The question is whether the constitution prohibits the Legislature from bringing order to that chaos.

While the Court has continued to repeat the metaphysics, nothing demonstrates that the Court will adhere to it as a constitutional rule beyond the reach of the

Legislature. See Johnson v. S.D. Warren, 432 Me. 431, 435 (Me. 1981) (in a case of two successive injuries where by statute total compensation was based on wages at the time of the second injury, the Court declined to put on a constitutional basis its decision that the contribution of the first insurer was limited to wages at the time of the first injury); Terry v. St. Regis Paper Co., 459 A.2d 1106 (Me. 1983) (in deciding that repeal of a ceiling of 200% of statewide average weekly wages did not apply to persons injured before the effective date of the repealer, the Court placed its decision on the rule of statutory construction requiring a clear expression of legislative intent to apply a statute retroactively) (an example of the bad results that flow from the hold over of the vested rights theory, but the result would be far worse if the Court had held that the Legislature could not constitutionally apply the repealer retroactively); Warren v. H.T. Winters Co., 537 A.2d 583, 585-86 (Me. 1988) (while stating, "We agree with Warren that an employee's rights, including rights to compensation, vest on the date of an injury, and cannot be diminished by subsequently enacted legislation," the Court held that basing compensation on employee's lower wages at time of second injury did not diminish his vested rights); Clark v. Rust Engineering Co., 595 A.2d 416, 419 (Me. 1991) (the Court held that applying retroactively a new judicial construction of an old statute with the effect of increasing the computation of an employee's wages did not impair the obligations of the contract between the employer and its insurer). Finally, McDonald v. Rumford School District, Docket no. WCC-91-531, (Supreme Judicial Court, June 24, 1992), was based entirely on statutory construction and had nothing to do with constitutionally protected vested rights.

3. The Court Adopts A Modern Analysis. In 1983 the Legislature greatly expanded the standard governing eligibility for workers' compensation for asbestos-related diseases (the same kind of statute that was discussed in Barrett v. Herbert Engineering above). The legislation, which became effective

on September 23, 1983, contained the following statement in "strong, clear and imperative language" that the Legislature intended it to be applied retroactively (the effect that Gauthier's Case said was unconstitutional):

This section applies only to asbestos-related diseases caused or contributed to by a last injurious exposure to asbestos which occurred on or after November 30, 1967.

The statute also provided that payments were to be made only for periods of incapacity occurring after October 1, 1983. Thus the statute applied to injuries before its effective date and provided remedies beginning shortly after its effective date onward. The Court considered its constitutionality in Norton v. C.P. Blouin, Inc., 511 A.2d 1056 (Me. 1986):

We acknowledge that the opinions of this Court, written over a period of years, admit of divergent analytic approaches on the question of retroactive application of statutes.⁵ In the present case, however, we consider two questions to be dispositive.

5. We have previously held that when a statute is purely procedural or remedial in nature, application of that statute to matters pending at the time of its enactment, even though the events giving rise to the proceedings occurred prior to the statute's effective date, constitutes a prospective rather than a retroactive application. *Merrill v. Eastland Woolen Mills, Inc.*, 430 A.2d 557, 560-61 (Me.1981); *Dobson v. Quinn Freight Lines, Inc.*, 415 A.2d 814, 816 (Me.1980). When a statute effects a substantive change, its application remains prospective if it governs operative events that occurred after its effective date, even though the entire state of affairs includes events pre-dating the statute's enactment. *Director of Bureau of Labor Standards v. Fort Halifax Packing Co.*, 510 A.2d 1054, 1063 (Me. 1986), *Adams v. Buffalo Forge Co.*, 443 A.2d 932, 943-44 (Me.1982). A substantive statute, however, will not be applied to operative events arising before its effective date unless accompanied by a clear expression of legislative intent favoring such a retroactive application. *Terry v. St. Regis Paper Co.*, 459 A.2d 1106, 1108-09 (Me.1983); *Coates v. Maine Employment Security Commission*, 406 A.2d 94, 96-97 (Me.1979). If the Legislature intends a retroactive application, the statute must be so applied unless the Legislature is prohibited from regulating conduct in the intended manner, and such a limitation upon the Legislature's power can only arise from the United States Constitution or the Maine Constitution.

The confusion in this area stems from statements in our prior cases that are inconsistent with the principles set forth above. First, an early decision required a clear expression of legislative intent favoring retroactive applica-

tion in a case in which the Court had already determined the statutory change to be procedural. *Miller v. Fallon*, 134 Me. 145, 147-48, 183 A. 416, 417 (1936). Second, on occasion we have stated that retroactive application of a statute is unconstitutional if it "impairs vested rights or imposes liabilities," without identifying the source of the asserted constitutional prohibition. *Merrill v. Eastland Woolen Mills, Inc.*, 430 A.2d at 560 n. 7; *Miller v. Fallon*, 134 Me. at 147, 183 A. at 417. Finally, the confusion has been aggravated because the test set forth for identifying an unconstitutional retroactive application has mirrored the standard articulated for determining whether a statute is procedural or substantive. Compare *Merrill v. Eastland Woolen Mills, Inc.*, 430 A.2d at 560 n. 7 (retroactive legislation unconstitutional if it "impairs vested rights or imposes liabilities") with *Dobson v. Quinn Freight Lines, Inc.*, 415 A.2d at 816 (legislation procedural because it "does not revive an extinguished right or deprive anyone of vested rights").

We reaffirm that the application of a procedural statute to pending matters is not a retroactive application. If the statute effects a substantive change, that is, if it determines the legal significance of operative events occurring prior to its effective date by impairing rights or creating liabilities, the statute will govern matters arising before its effective date only if legislative intent favoring such a retroactive application is clearly expressed or necessarily implied. If the Legislature intends for a statute to apply retroactively, however, the statute will be so applied unless a specific provision of the state or federal constitution is demonstrated to prohibit such action by the Legislature.

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[2] Blouin argues that even if section 194-B was intended to have retroactive effect, the Legislature is constitutionally prohibited from changing "the obligations of an employer after the employment relationship has ended." Blouin does not contend that the statute violates the due process requirements of the Maine or United States Constitution,⁷ but rather argues that, if applied retroactively, it would impermissibly impair contractual rights in violation of Me. Const. art. I, § 11.

The constitutional argument advanced by the employer is premised upon two early Maine cases. In 1919, this Court upheld the constitutionality of the adjudicative jur-

7. It is clear that no federal due process violation occurs simply because a statute creates liability based on events pre-dating its enactment. In *Usery v. Turner Elkorn Mining Co.*, 428 U.S. 1, 96 S.Ct. 2882, 49 L.Ed.2d 752 (1976), the Supreme Court reviewed a statute creating employer liability to sufferers of black lung disease who had left employment prior to the passage of the statute. In ruling the statute valid, the Court stated:

[O]ur cases are clear that legislation readjusting rights and burdens is not unlawful solely because it upsets otherwise settled expectations. This is true even though the effect of the legislation is to impose a new duty or liability based on past acts.

Id. at 16, 96 S.Ct. at 2892 (citations omitted). The Court went on to state that although the justifications for prospective legislation may not always suffice to support retroactive legislation, retroactive application is permitted so long as a rational and non-arbitrary basis exists for making the statute retrospective. *Id.* at 17-19, 96 S.Ct. at 2893-2894. In *Pension Benefit Guaranty Corp. v. R.A. Gray & Co.*, 467 U.S. 717, 104 S.Ct. 2709, 81 L.Ed.2d 601 (1984), the Court reaffirmed that retroactive legislation need only address a legitimate legislative purpose by rational means to comport with the requirements of due process, explicitly rejecting a contention that retroactive legislation requires stricter scrutiny than is afforded by the rational relation test. *Id.* 104 S.Ct. at 2718, 2720.

Because Blouin raises no due process challenge, state or federal, we have no occasion to determine whether the Due Process Clause contained in the Maine Constitution limits retroactive legislation to any greater degree than does its federal counterpart.

isdiction of the Workers' Compensation Commission, stating that "[t]he Maine Workmen's Compensation Act is elective. No employer or employee is bound to submit to it without his assent, actively or passively manifested." *Mailman's Case*, 118 Me. 172, 175, 106 A. 606, 607 (1919). Two years later *Gauthier's Case*, 120 Me. 73, 113 A. 28 (1921), held that benefits under a law enacted in 1919 could not be awarded for an injury occurring in 1918. Citing *Mailman's Case*, this Court stated:

Our Workmen's Compensation Law is elective. Rights and obligations under it are contractual.

Upon the happening of an industrial accident the right to receive compensation becomes vested, and the obligation to pay is fixed. To change such vested rights and fixed obligations by statute would clearly be to impair the obligation of contracts.

Id. at 76, 113 A. at 30 (citation omitted).⁸


Blouin's argument ignores the fact that the Workers' Compensation Act is no longer elective, and thus, coverage under the Act is no longer a matter of contract. A 1973 amendment to the Act makes its provisions mandatory for all private employers. P.L. 1973, ch. 746 (currently codified at 39 M.R.S.A. §§ 2, 4, 21, 23, 24, 28, 104-A (1978)). At least as of 1973, the active or passive assent referred to in *Mailman* was no longer required, and the employer's obligation became one of general law rather than contract.⁹ With this development, any claim of impairment of contract rights disappears. See *Bureau of Labor Standards v. Fort Halifax Packing Co.*, 510 A.2d 1054, 1062 (Me.1986).

We conclude that the Legislature intended that section 194-B apply to the facts of this case and reject Blouin's constitutional claim that vested contract rights have been violated.

8. In *Reggep v. Lunder Shoe Products Co.*, 241 A.2d 802 (Me.1968), we cited *Gauthier* for the proposition that benefit levels are vested at the time of injury and we then proceeded to interpret the statute.

Of course, what is constitutional is not always good policy. But two points do seem clear: First, up to now the Legislature, thanks to the Court, has been laboring under the misapprehension that it could not affect compensation benefits or eligibility for persons whose injuries had already occurred. Second, the Court's sustaining the Legislature's asbestos statute shows the way to a more comprehensive reform of workers' compensation than was previously possible. If this Commission recommends retroactive application of a new system of benefits, then you should consider phasing such a system in and providing a mechanism for dealing with cases of particular hardship.

August 14, 1992



David Gregory
Professor of Law

CONSTITUTION OF THE STATE OF MAINE

As Amended January, 1983

ARTICLE IV Part Third Legislative Power

§ 16. Acts become effective in 90 days after recess; exception; emergency bill defined

Section 16. No Act or joint resolution of the Legislature, except such orders or resolutions as pertain solely to facilitating the performance of the business of the Legislature, of either branch, or of any committee or officer thereof, or appropriate money therefor or for the payment of salaries fixed by law, shall take effect until 90 days after the recess of the session of the Legislature in which it was passed, unless in case of emergency, which with the facts constituting the emergency shall be expressed in the preamble of the Act, the Legislature shall, by a vote of two thirds of all the members elected to each House, otherwise direct. An emergency bill shall include only such measures as are immediately necessary for the preservation of the public peace, health or safety; and shall not include (1) an infringement of the right of home rule for municipalities, (2) a franchise or a license to a corporation or an individual to extend longer than one year, or (3) provision for the sale or purchase or renting for more than 5 years of real estate.