

PERFORMANCE AUDIT REPORT

**Reviewing Selected Issues Related to
Workers' Compensation**

**A Report to the Legislative Post Audit Committee
By the Legislative Division of Post Audit
State of Kansas
February 1993**

Legislative Post Audit Committee

Legislative Division of Post Audit

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PERFORMANCE AUDIT REPORT

REVIEWING SELECTED ISSUES RELATED TO WORKERS' COMPENSATION

OBTAINING AUDIT INFORMATION

This audit was conducted by Murlene Priest, Joe Lawhon, Rick Riggs, and Tom Vittitow, Auditors, of the Division's staff. If you need any additional information about the audit's findings, please contact Ms. Priest at the Division's offices.

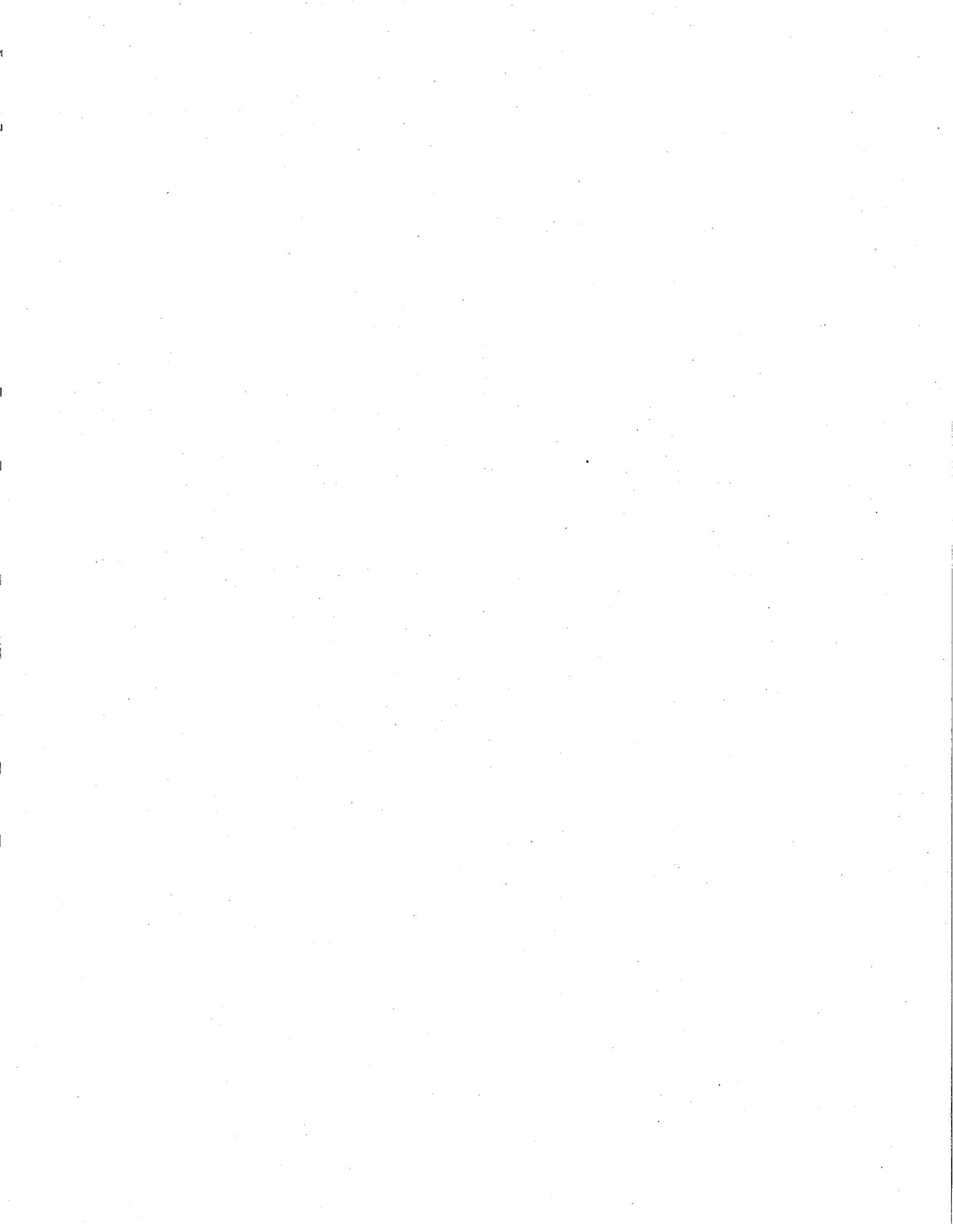
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REVIEWING SELECTED ISSUES RELATED TO WORKERS' COMPENSATION

Summary of Legislative Post Audit's Findings

How do Kansas' workers' compensation benefits and premiums compare with other states? In general, Kansas offers the same kinds of workers' compensation benefits as other states. Like most states, Kansas requires employers to cover all reasonable and necessary medical bills related to employees' on-the-job injuries. Kansas' disability compensation payments for general types of injuries, such as back strains or broken limbs, were about the same as in other states. Compensation payments for the loss, or loss of use, of specific body parts such as a hand, eye, or foot, were generally at or slightly above the median compensation provided for similar injuries in other states. Death benefits also were similar to what other states provide. Workers' compensation premiums in Kansas were slightly below the median for other states and increased at about the same rate as premiums nationally.

Have changes in federal or State law over the years contributed to the rising cost of premiums? In recent years, changes in State law have increased the maximum benefits for workers' compensation claims. For a permanent total disability, maximum compensation was increased from \$100,000 to \$125,000. For other types of disabilities, maximum compensation was increased from \$75,000 to \$100,000. For a work-related death, maximum benefits were increased from \$100,000 to \$200,000. Also, a 1987 law made vocational rehabilitation services mandatory in many cases, which reportedly has driven up costs. Costs for vocational rehabilitation more than doubled between 1990 and 1992, but data were not available to permit an estimate of the overall cost impact of the other statutory changes. Interpretations of State law by Kansas courts have broadened the definition of work disability, and may have increased the total cost of claims, and therefore, premiums.

What cost-containment measures have other states enacted to help control the rising costs of workers' compensation insurance? States have taken a number of measures. For example, to reduce a worker's incentive to appeal or litigate workers' compensation claims, some states have made the determination of the extent of an employee's disability more standardized. Other states have established arbitration services to help resolve disputes. To control medical costs, states have used fee schedules, established panels to perform utilization reviews and bill reviews, and established managed-care programs. To reduce workers' compensation fraud, some states have established fraud hotlines and created fraud units. To try to reduce the number of on-the-job accidents, some states have enacted measures to improve workplace safety, such as setting up safety agencies, requiring employers to establish safety committees, and refusing to compensate employees for injuries resulting from the use of drugs or alcohol.

What types of management information systems have other states implemented to help identify and control workers' compensation costs? The states we contacted generally collected and analyzed data on provider fees, hospital charges and costs, rehabilitation costs, compensation expenses, defendant legal expenses, type of injury, cause or source of injury, employer, type of

industry, claimant legal expenses, and insurance carrier. Those states' systems generally allow them to answer basic questions about workers' compensation, such as which injuries are most frequent or most expensive. We also found that a national organization is presently running pilot projects with the ultimate goal of standardizing workers' compensation data collection among all states.

The report makes recommendations for modifying current State law on how certain disabilities are defined, and on mandatory provision of vocational rehabilitation services. The report also makes recommendations related to planning improvements in the Workers' Compensation Division's computer system. We would be happy to discuss the findings presented in this report with any legislative committees, individual legislators, or other State officials.

A handwritten signature in cursive script that reads "Barbara J. Hinton". The signature is written in black ink and is positioned above the printed name and title.

Barbara J. Hinton
Legislative Post Auditor

Reviewing Selected Issues Related to Workers' Compensation

Most employees who are injured on the job or suffer a work-related injury are eligible for workers' compensation benefits in Kansas. These benefits may include payment for lost wages while workers recover from injuries, reimbursement for related medical expenses and vocational rehabilitation, lump-sum payments for disabilities, and death benefits. To provide these benefits, employers may purchase workers' compensation insurance policies from private insurance companies, or eligible employers may self-insure or join group-funded pools. The policies' coverage and benefits are standardized. Premiums for workers' compensation insurance policies have increased rapidly in the last 10 years, and some small business owners claim the increase is putting them out of business.

Legislative questions have been raised about how workers' compensation benefits and premiums in Kansas compare with other states, and what can be done to help control the rising cost of workers' compensation insurance. The Legislative Post Audit Committee authorized a performance audit to answer the following questions about workers' compensation in Kansas:

- 1. How do Kansas' workers' compensation benefits and premiums compare with other states?**
- 2. Have changes in federal or State law over the years contributed to the rising cost of premiums?**
- 3. What cost-containment measures have other states enacted to help control the rising costs of workers' compensation insurance?**
- 4. What types of management information systems have other states implemented to help identify and control workers' compensation costs?**

To answer these questions, we reviewed benefit information and average premiums for Kansas and other states for the last several years, as well as legislative changes that might affect access to, benefits from, or premiums charged for workers' compensation insurance in Kansas. In addition, we interviewed Insurance Department and Workers' Compensation Division officials, insurance company representatives, workers' compensation lawyers, and administrative law judges. We also surveyed a sample of Kansas employers to determine their opinions about the workers' compensation system in Kansas. We contacted a sample of other states and national organizations to determine what cost-containment measures are being used and whether Kansas could use similar measures. In addition, we talked with several states and national organizations about effective management information systems for state-controlled workers' compensation programs.

In conducting this audit, we followed all applicable government auditing standards set forth by the U.S. General Accounting Office, except that we did not verify the accuracy of information taken from national organizations or information obtained from other states. We found only one source of national information—the National Council on Compensation Insurance—for comparative cost and premium information for Kansas and other states. We noted some differences between information from the National Council and information available from State agencies, but the differences generally were not significant.

We found that Kansas offers the same general types of benefits as other states. Most states require all reasonable and necessary medical bills to be paid, although many have adopted procedures to limit certain payments. Compared with other states, Kansas' disability benefits are about the same for general injuries and loss of a body part. Death benefits are about the same across the country. Kansas workers' compensation premiums were below the median nationally, and have increased less than premiums in many nearby states. Generally, the increases in premiums and costs have paralleled each other.

Changes in state law have raised the maximum benefits for workers' compensation claims, and have increased costs associated with vocational rehabilitation. Similarly, interpretations of State law by the courts have broadened the definition of work disability, which also may have increased total claim costs.

We found that states are taking a variety of measures to control workers' compensation costs in the areas of litigation, medical care, and vocational rehabilitation. Some states also are trying to cut costs by enhancing workplace safety and reducing fraud. Finally, we found that other states' systems generally collected a variety of data on workers' compensation claims, and those systems were generally able to produce a variety of standard and custom reports that help them monitor their cost-control activities and develop plans to better manage their workers' compensation systems.

These and other findings are discussed in more detail following a brief overview of the workers' compensation system in Kansas.

Overview of the Workers' Compensation System

Workers' compensation is a program that is mandated and controlled by the State rather than the federal government. All states mandate or provide some form of workers' compensation benefits to employees.

Workers' Compensation Insurance Is Designed as "No-Fault" Coverage

The Kansas Legislature enacted the Kansas Workers' Compensation Act in 1911. The Act was designed to provide compensation for workers who were injured or killed on the job. Under the workers' compensation system, the injured employee gave up the right to sue the employer for negligence (and possibly receive a large damage award), and in return the employer surrendered the right to use most of the defenses available in a negligence lawsuit. In essence, the Act created a "no-fault" insurance plan for injured workers.

The idea behind the Act was to enable the employee to obtain prompt treatment and receive modest compensation for injuries without having to go through time-consuming and costly litigation to obtain that compensation. Although the Act has been amended many times over the years to change the types of employers or the types of injuries that are covered by workers' compensation, the basic concept of the "no-fault" insurance system has remained intact.

Under current Kansas law, nearly all employers with an annual payroll of \$10,000 or more (except agricultural pursuits and some other occupations) must provide workers' compensation coverage for their employees. They may provide the required coverage by purchasing a standard workers' compensation insurance policy from a commercial insurance carrier, or employers meeting certain qualifications may become self-insured or become part of a group-funded pool. Workers' compensation insurance provides medical and disability benefits to the injured employee, or in the case of death, death benefits to the employee's dependents.

The State Has a Relatively Small Role In Administering Workers' Compensation in Kansas

Unlike the Workers' Compensation Fund which is administered by the State, workers' compensation insurance in Kansas generally is written by insurance companies and is administered by the insurance companies and employers across the State. The Kansas Insurance Department regulates the types of coverage provided by insurers, and the Department of Human Resources' Division of Workers' Compensation serves as an arbitrator when employees and insurance companies disagree about workers' compensation claims. The Division also collects information on work-related accidents in Kansas, but does not keep complete information on workers' compensation claims in

Kansas, and does not have an active role in administering workers' compensation in Kansas.

The Workers' Compensation Division Is Funded by Assessments Against Insurance Companies

The Division is funded by assessments against insurance companies that write workers' compensation policies in Kansas. Although the Division does not receive any General Fund appropriations, its funds are appropriated by the Legislature as part of the budgetary process.

The Division of Workers' Compensation could not provide information on medical and disability compensation payments for workers' compensation in the State. However, the National Council on Compensation Insurance, a national rate-setting organization, estimated that total workers' compensation benefits paid out in Kansas increased from about \$121 million in 1985 to more than \$245 million in 1991, an increase of about 103 percent over the seven-year period, or an average of about 12.5 percent per year. During that same timeframe, the Consumer Price Index rose about four percent per year, and the Medical Care Price Index rose about 7.7 percent per year. The following table shows the total expenditures per year, as well as the approximate expenditures for compensation payments and medical expenses.

<u>Year</u>	<u>Total</u>	<u>Compensation (a)</u>	<u>% of Total</u>	<u>Medical</u>	<u>% of Total</u>
1985	\$120,755,675	\$73,902,473	61.2	\$46,853,202	38.8
1986	134,554,116	80,867,024	60.1	53,687,092	39.9
1987	147,885,631	83,999,038	56.8	63,886,593	43.2
1988	164,553,813	91,821,028	55.8	72,732,785	44.2
1989	184,857,801	101,117,217	54.7	83,740,584	45.3
1990	222,309,953	116,935,035	52.6	105,374,918	47.4
1991	245,685,923		(b)		(b)
% Increase	103%	58%		125%	

(a) Compensation includes disability and death benefits.
 (b) Information for 1991 was not available from the National Council on Compensation Insurance.

As the table shows, medical payments make up a large component of the total workers' compensation cost in Kansas. Over the past several years, medical benefits have taken a larger and larger portion of the benefits paid to injured workers, and may easily exceed compensation payments in the near future.

How Do Kansas' Workers' Compensation Benefits and Premiums Compare With Other States?

Overall, Kansas' workers' compensation benefits tend to be middle-of-the-road when compared with benefits in other states. Like most other states, Kansas requires employers to cover all reasonable and necessary medical bills related to employees' on-the-job injuries. Compensation payments for the loss, or loss of use, of specific body parts such as an eye, hand, or foot, are generally at or slightly above the median. Compensation payments for more general types of injuries, such as back strains or broken limbs, are also about the same in Kansas as in other states. Death benefits in Kansas are about the same as those benefits provided to dependents in other states.

Worker's compensation premiums in Kansas are less than in most other states. Overall, Kansas premiums have increased at about the same rate as premiums nationally, however, they have taken a fairly large jump in the past two years. It appears that benefit levels in a state are not the most important factor in determining the premiums that employers will ultimately pay. Other factors such as the overall increase in legal or medical costs, the number of accidents, and the risk associated with the types of industries within a state may have a larger impact on premium levels. These and related findings will be discussed in more detail in the sections that follow.

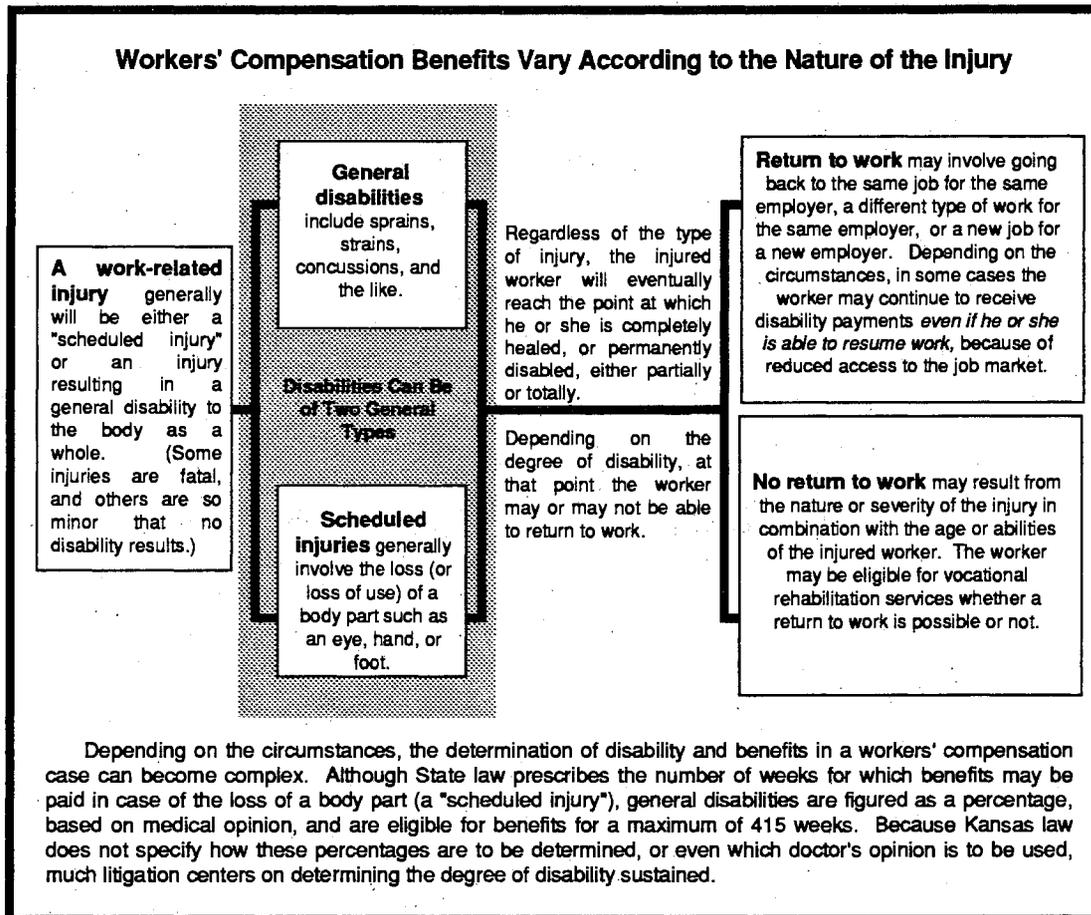
Kansas Offers the Same General Types of Workers' Compensation Benefits As Other States

When a worker is injured on the job in Kansas, the worker becomes eligible to receive three basic types of benefits under the Kansas' Workers' Compensation Act. Those benefits fall into three general categories.

- **Medical Benefits**—These benefits pay for doctor or hospital bills that are reasonable and necessary to cure or relieve the worker from the effects of the injury. Medical benefits also include the cost of vocational rehabilitation. In Kansas, vocational rehabilitation is mandated by law for any worker who remains off the job more than 90 days. There are usually no waiting periods nor lifetime maximums attached to medical benefits.
- **Disability Compensation Payments**—These benefits are paid to compensate the worker for time lost from work because of a work-related injury. Benefits are based on the extent and severity of the injury, and are based on a percentage of the employee's salary. They are not designed to provide the worker with the same salary earned before the injury.
- **Death Benefits**—These benefits are paid to the dependents of a worker who dies because of a work-related injury. Death benefits are based on a percentage of the deceased employee's weekly wage, and generally are paid in weekly payments for the spouse's lifetime (or until remarriage) and until children reach the age of 18 (or 23 if a full-time student) In many states, a spouse who remarries can receive a lump-sum payment. Also, many states (Kansas included) provide a burial allowance.

Although each state differs somewhat in the level and types of benefits it provides to injured workers, all states offer the three basic types of benefits listed above.

The actual amount of benefits paid for any given workers' compensation case depends on the circumstances of the case, and no two cases are identical. Also, Kansas and other states do not have good information about how much is actually paid for medical, disability, and death benefits. To make benefit comparisons, we focused on the maximum amounts a state allows to be paid in terms of dollars or weeks of compensation.



To determine how Kansas' medical, disability, and death benefits compared with benefits offered in other states, we reviewed information that was available from the U.S. Chamber of Commerce, the National Council on Compensation Insurance, and other national literature. We also contacted officials in a sample of other states as necessary to get additional information about the level of benefits those states offer.

Most States Require All Reasonable and Necessary Medical Bills for Injured Workers To Be Paid, Although Many Have Adopted Procedures To Limit Certain Payments

Virtually all states, including Kansas, require all legitimate medical bills for injured workers to be paid, and generally do not place maximums on medical care

provided to injured workers. Also, there are no waiting periods for injured workers to receive medical benefits. However, a few states had some provisions regarding medical benefits that were different from Kansas.

For example, three states placed strict limitations on the employer's obligation to pay medical bills for an injured worker. In Arkansas, an employer's obligation to pay medical bills may cease after six months if the employee's injury did not result in any time away from work, or if the employee has returned to work. In Arkansas, Florida, and New Jersey, an employer's medical liability for an injured worker may cease after specific dollar limits have been reached; however, these states also allow the injured worker to petition for additional medical coverage. Kansas does not have these types of time or dollar limits.

Finally, we found that some states limit provider charges or the type of care that can be provided to an injured employee. For example, 33 states are using, or are in the process of developing, medical or hospital fee schedules. These fee schedules limit the charges providers can make for medical care for injured workers. In 1990, Kansas passed laws to establish a fee schedule, and one finally was approved in January 1993. However, it will not be in effect for some time. These issues will be discussed in greater detail later in this report, when we examine what cost-containment measures other states have implemented in response to rising workers' compensation costs.

Compared With Other States, Kansas' Disability Benefits Are About the Same for General Body Injuries, and For the Loss of Body Parts

In Kansas, the amount of disability compensation a worker receives depends on the nature and severity of the injury. For certain types of work-related injuries that involve the loss, or loss of use, of a body part, State statutes specify the number of weeks of compensation an injured worker will receive. (These injuries are usually referred to as "scheduled" injuries because the statutes provide a schedule of weeks of compensation for the injury.) For these types of injuries, the employee can either receive weekly compensation payments or accept a lump sum payment.

For more general types of disabilities, such as a strained back or a broken arm, which generally do not involve the loss, or permanent loss of use, of a body part, the employee will receive a certain percent of his or her average weekly wage for a period of weeks up to maximums set by State law. The amount employees will receive depends on whether their disability is partial or total, whether it is temporary or permanent, and how disabled the injury has left them. Ultimately, the actual disability payment will be determined either by an agreement between the employee and the employer's insurer, or by the judicial system if the injured worker and the insurance company cannot come to an agreement.

For general body disabilities, Kansas's benefits are about the same as benefits provided in other states. General body disabilities cover a wide range of

Categories of Disability Used in Kansas			
		Severity of the Injury	
		Temporary	Permanent
Nature of The Injury	Partial	Temporary Partial: An employee is injured and not able to perform his or her regular job for a period of time, but is capable of performing some type of work for the employer for the duration of the injury and recovery.	Permanent Partial: An employee suffers permanent injury with no likelihood of full recovery, but this does not mean the employee is completely incapacitated, and can generally perform some type of work.
	Total	Temporary Total: An employee is temporarily unable to work at all.	Permanent Total: An employee is permanently unable to perform any gainful work as the result of his or her injuries. The employee may not be completely incapacitated, but is handicapped to such an extent that the worker cannot become regularly employed in the labor market.

physical disabilities that are job related, and are limited to a maximum pay-out amount for the duration of the disability.

As shown in the graphic above, general body disabilities fall into four classes, based on the nature and severity of the injury. The duration of disability payments that an injured worker receives will depend on which of these four categories the injury falls into. For most states, the amount and number of disability payments an injured worker can receive are based on three components:

- a pre-established percent of the employee's weekly wages
- a pre-established limit on the amount of weekly compensation benefits
- a limit on the number of weeks compensation can be paid

In practice, these components will limit the total amount of compensation an injured worker can receive. For example, if the pre-established percentage of employee's wages was 66 percent, and the employee was earning \$200 a week, the the weekly disability amount would be \$132 for the employee (66% x \$200 = \$132). However, if the state limited the maximum weekly compensation to \$100 per week, the same employee in the example above would receive only \$100 per week, instead of \$132. Depending on the disability, the worker might receive \$100 per week in disability compensation for 400 weeks, or as long as the state allows an injured worker to draw disability compensation.

We examined these components for each of the four classes of general body disabilities for Kansas and the other states. Because many states have set up their workers' compensation programs in different ways, we could not compare all states' benefits with Kansas.

The tables below and on the following page summarize the information for states where at least general comparisons could be made. Complete information about these comparisons can be found in Appendices A, B, C, and D.

Comparison of General Body Disability Provisions, Kansas and Other States		
Temporary Partial Disability	Kansas	Other States
Basis for determining weekly benefit	Two-thirds of the difference between the employee's pre-injury average weekly wage, and the amount the worker is actually earning, up to the cap on the weekly benefit.	Of the 43 states with this benefit, 31 pay two-thirds of the difference between the employee's pre-injury average weekly wage and the amount the worker is actually earning, up to the cap on weekly benefits. Eight states pay more than two-thirds, three pay less, and one does not use average weekly wage.
Cap on the weekly benefit	75 percent of the Statewide gross average weekly wage	Of the 43 states with this benefit, 26 set their cap on weekly wages at a higher percent than Kansas. The percentages ranged from 67 to 200 percent of the statewide average; however, most set the percentage near 100. Two use the same percent as Kansas, eight are lower, and seven do not use statewide average weekly wage.
Maximum number of weeks	415 weeks, up to a maximum payout of \$100,000.	Of the 43 states with this benefit, 27 had a specific time limit for benefits which ranged from 100 to 1,000 weeks; however, most of these states had 300 to 500 week limits. 16 states had no limit on the number of weeks, and most states did not have a limit on the total payout, other than the limitation imposed by number of weeks.
Temporary Total Disability		
Basis for determining weekly benefit	Two-thirds of the employee's pre-injury average weekly wage, up to the cap on weekly benefits.	Of the 47 states with this benefit, 39 pay two-thirds of the employee's pre-injury wage. Six states pay more than two-thirds, and two states pay less than two-thirds.
Cap on the weekly benefit	75 percent of the Statewide gross average weekly wage	Of the 47 states with this benefit, 28 set their cap on weekly wages at a higher percent than Kansas. The percentages ranged from 67 to 200 percent of the statewide average, however, most states set the percentage near 100. Two use the same percent as Kansas, eight are lower, and nine do not use statewide average weekly wage.
Maximum number of weeks	Duration of the disability, up to a maximum payout of \$100,000	Of the 47 states with this benefit, 30 had no time limit on the disability. 17 had a specific time limit for benefits which ranged from 52 to 1,000 weeks; however, most of these states had limits between 300 and 500 weeks.

	Kansas	Other States
Permanent Partial Disability		
Basis for determining weekly benefit	Two-thirds of the employee's pre-injury average weekly wage, combined with the employee's percent of disability, up to the cap on the weekly benefits.	Of the 45 states with this benefit, 25 pay two-thirds of the employee's pre-injury wage. Three states pay more than two-thirds, and four states pay less than two-thirds. 13 states do not base their benefit on average weekly wage.
Cap on the weekly benefit	75 percent of the Statewide gross average weekly wage.	Of the 45 states with this benefit, 15 do not set their cap based on a percent of statewide average weekly wages. 11 states set their cap at 100 percent, three have caps higher than 100 percent, and 16 have caps lower than 100 percent.
Maximum number of weeks	415 weeks, up to a maximum payout of \$100,000	Of the 45 states with this benefit, 32 states had specific limits on the number of weeks to receive payments which ranged from 200 weeks to 1,000 weeks; however, most of these states had limits between 300 and 500 weeks. Six states used dollar limits. Seven states had no set limit on this benefit.
Permanent Total Disability		
Basis for determining weekly benefit	Two-thirds of the employee's pre-injury average weekly wage, up to the cap on the weekly benefit.	Of the 47 states with this benefit, 37 pay two-thirds of the employee's pre-injury wage. Seven states pay more than two-thirds and one pays less than two-thirds. Two states do not base this benefit on average weekly wage.
Cap on the weekly benefit	75 percent of the Statewide gross average weekly wage.	Of the 47 states with this benefit, 28 set their cap on weekly wages at a higher percent than Kansas. The percentages ranged from 45 to 200 percent of the statewide average, however, most set the percentage between 100 and 150. Three states set the percentage at the same level as Kansas, seven states are lower than Kansas, and nine do not use statewide average weekly wage.
Maximum number of weeks	Duration of the disability, up to a maximum of \$125,000.	Of the 47 states with this benefit, 37 had no time limit on the disability. 10 states had specific limits which ranged from 260 to 1,000 weeks; however, half of these states had limits near 500 weeks.

As the tables show, most states limit their weekly benefit to about two-thirds of the employee's pre-injury weekly wage, just like Kansas. However, many states set their cap on the weekly benefit at a higher rate than Kansas (75 percent in Kansas compared with about 100 percent in many other states). Finally, many states set time limits for their disability payments that are either shorter, or in some cases longer, than in Kansas. For example, Louisiana and Kansas both set their maximum weekly wage at 75 percent of the statewide average for permanent partial disabilities. However, Kansas allows the worker to receive the benefit for up to 415 weeks, while Louisiana allows just 200 weeks of disability. For all types of disabilities, Kansas applies both a time and maximum dollar amount limitation; most states apply either the time or maximum dollar amount limitation.

Kansas is near the median of other states in compensation paid to workers for injuries involving the loss, or loss of use, of a body part. In reviewing literature about workers' compensation laws governing the loss of body parts, we found that 43 states have developed schedules that specify the maximum amount a worker may receive for these types of injuries. Virtually all these schedules are based on some percentage of the state's average weekly wage, multiplied by a certain number of weeks. Appendix E has a complete list of the scheduled benefits for states using scheduled injury tables.

As noted above, Kansas' maximum benefit is based on 75 percent of the Statewide average weekly wage, which is lower than almost all other states' average. However, the lower limit on the weekly benefit amount in Kansas is partially offset by the fact that the maximum number of weeks for which benefits could be paid in Kansas is slightly higher than the median of other states. This information is shown in the table below.

<u>Injury</u>	<u>Weeks of Benefits Provided</u>				
	<u>Kansas</u>	<u>For Other States</u>			
		<u>Median</u>	<u>Most Frequent</u>	<u>High</u>	<u>Low</u>
Arm at shoulder	210	200	200	410	43
Hand	150	150	150	335	34
Thumb	60	54	60	100	16
First Finger	37	32	35	54	7
Second Finger	30	25	30	44	6
Third Finger	20	19	20	31	4
Fourth Finger	15	13	15	28	4
Leg at Hip	200	175	200	410	39
Foot	125	125	125	250	29
Great Toe	30	27	30	42	7
Toes	10	10	10	20	2
One Eye	120	100	100	275	34
One Ear	30	42	50/75	80	11
Both Ears	110	124	150	260	42

As the table shows, Kansas' disability period is slightly longer than the median for nine of the 14 types of injuries shown.

The net effect of Kansas basing its compensation on a smaller percentage of its Statewide average weekly wage, but paying compensation for a longer period of time, is that, on average, the maximum amount that can be paid for an injury involving the loss, or loss of use, of a body part in Kansas is very near the median of other states.

Kansas' Workers' Compensation Death Benefits Are Comparable to Death Benefits in Other States

In Kansas, when an employee dies because of a work-related injury, the worker's dependents are eligible for up to \$200,000 in compensation payments and \$3,200 for burial expenses.

In Kansas and most other states, a spouse and other dependents are eligible for two-thirds of the worker's average weekly wage, up to the state's maximum weekly benefit. In general, the spouse may receive these benefits for life or until remarriage, and children may receive benefits until age 18, or 23 if still in school.

When Compared With Other States, Kansas' Workers' Compensation Premiums For Each \$100 in Payroll Were Below the Median

Although the level of coverage provided by workers compensation insurance is the same for all businesses in Kansas, the premiums individual businesses pay for

A Summary of Information from Our Survey of Kansas Employers

For the 37 respondents to our survey of a sample of Kansas employers, the average workers' compensation premium cost per employee in 1992 was \$495. These respondents also reported that from 1985 to 1992:

- The average employer's workers' compensation premium increased 73 percent, from \$23,650 to \$40,852.
- The number of claims filed by injured workers increased seven percent.
- The number of employees decreased two percent.
- Ten of 37 employers reported a decrease in their number of employees; nine of the 10 experienced an increase in their premiums (two of the nine reported no claims filed in the time period).
- Eight of 37 employers reported no change in their number of employees; seven of the eight experienced an increase in premiums (six reported no claims filed in the time period).
- Overall, in 1991, claims were filed by seven percent of the respondents' work force.
- All seven construction employers answering the survey reported workers' compensation claims in 1991; they reported that 27.6 percent of their workforce filed a claim in 1991; in contrast, the 10 retail employers reported that only 2.4 percent of their workforce filed a claim in 1991.

workers compensation insurance coverage are not the same. Each business pays a unique premium based on factors like the number of people employed, the level of risk involved in the industry, and the employer's past experience with and cost of his or her employees' work-related injuries.

Because it was not possible to compare premium rates for individual industries in all 50 states, we looked for information that would indicate the general level of workers' compensation premiums in Kansas and other states. The National Council on Compensation Insurance has compiled a comparative average rate for workers' compensation premiums in 38 states for 1992. These rates, which the Council adjusted to show the average amount employers in each state would pay for every \$100 of payroll *if the workforce of each state were the same*, are shown in the table on the next page.

As the table shows, during 1992, 22 of the 38 states included in the Council's figures had higher average workers' compensation premiums than Kansas.

**Average Workers' Compensation Premium
Per \$100 in Payroll, As of July 1992**

<u>State</u>	<u>1992 Average Rate</u>	<u>Rank</u>	<u>State</u>	<u>1992 Average Rate</u>	<u>Rank</u>
Montana	\$6.75	1	Michigan	\$3.62	20
Florida	5.61	2	Arkansas	3.32	21
Texas	5.60	3	Idaho	3.29	22
Connecticut	5.52	4	Kansas	3.21	23
Colorado	5.06	5	Hawaii	3.20	24
New Mexico	4.97	6	Mississippi	3.17	25
Oregon	4.84	7	South Dakota	3.02	26
Oklahoma	4.68	8	Wisconsin	2.88	27
Maine	4.24	9	Vermont	2.79	28
Louisiana	4.20	10	Tennessee	2.69	29
District of Columbia	4.19	11	Missouri	2.67	30
New Hampshire	4.06	12	Utah	2.52	31
Alabama	4.05	13	Iowa	2.51	32
Illinois	4.01	14	Maryland	2.50	33
Arizona	4.00	15	Nebraska	2.41	34
Georgia	3.97	16	South Carolina	2.36	35
Rhode Island	3.82	17	North Carolina	2.02	36
Alaska	3.81	18	Virginia	1.76	37
Kentucky	3.74	19	Indiana	1.65	38

Median \$3.68

Kansas' average premium of \$3.21 per \$100 of payroll was slightly below the median premium of \$3.68.

Because these figures were adjusted to make every state appear to have the same type of workforce, they may not reflect the actual premiums paid by Kansas employers. For information about premium increases reported to us by several types of businesses in Kansas, see the box on the previous page.

**Kansas' Premium Rates Increased at About
The Same Rate as Premiums Nationally**

The table on the following page shows how Kansas' and other selected states' premium rates increased from 1986 to January 1, 1992.

As the table shows, Kansas' premium increases were less than 25 other states' increases between 1986 and 1992, and the same as the national median. Between 1990 and January 1992, a number of states had significant premium increases, while a few had substantial decreases. For example, Kansas had a 24 percent increase in 1991, while Oregon had two consecutive rate decreases in 1991 and 1992. Detailed annual information on premium increases for 1986 to 1992 are in Appendix F.

Premium Rate Increases for 1986 to January 1992

	<u>1986-1992</u> <u>Percent</u> <u>Change</u>		<u>1986-1992</u> <u>Percent</u> <u>Change</u>
Hawaii	-35.2%	Nebraska	78.9%
Maryland	-7.5	Iowa	80.5
Virginia	6.2	Colorado	83.4
Delaware	8.0	Tennessee	84.8
New Jersey	14.1	Illinois	88.2
Alaska	17.4	New York	91.8
Minnesota	21.0	Florida	92.4
Oregon	26.5	North Carolina	97.8
District of Columbia	28.7	Utah	101.9
Arizona	39.8	South Dakota	104.2
Michigan	42.3	Missouri	105.3
Vermont	46.3	New Mexico	109.5
Idaho	51.9	Kentucky	113.8
Arkansas	52.3	Texas	114.5
California	52.7	Georgia	114.6
Pennsylvania	54.2	Indiana	123.5
New Hampshire	56.0	Connecticut	143.0
Oklahoma	56.3	Rhode Island	156.3
South Carolina	63.8	Massachusetts	162.7
Kansas	65.2	Alabama	191.3
Wisconsin	72.6	Maine	216.5
Mississippi	74.3	Louisiana	290.1
Montana	74.9	National Average	65.3%

The Rise in Premiums Paid Generally Has Paralleled the Rise in Costs

We also reviewed the change in total premiums paid as well as actual and anticipated losses for the states with information available from the National Council on Compensation Insurance.

That information is shown in the table on the facing page.

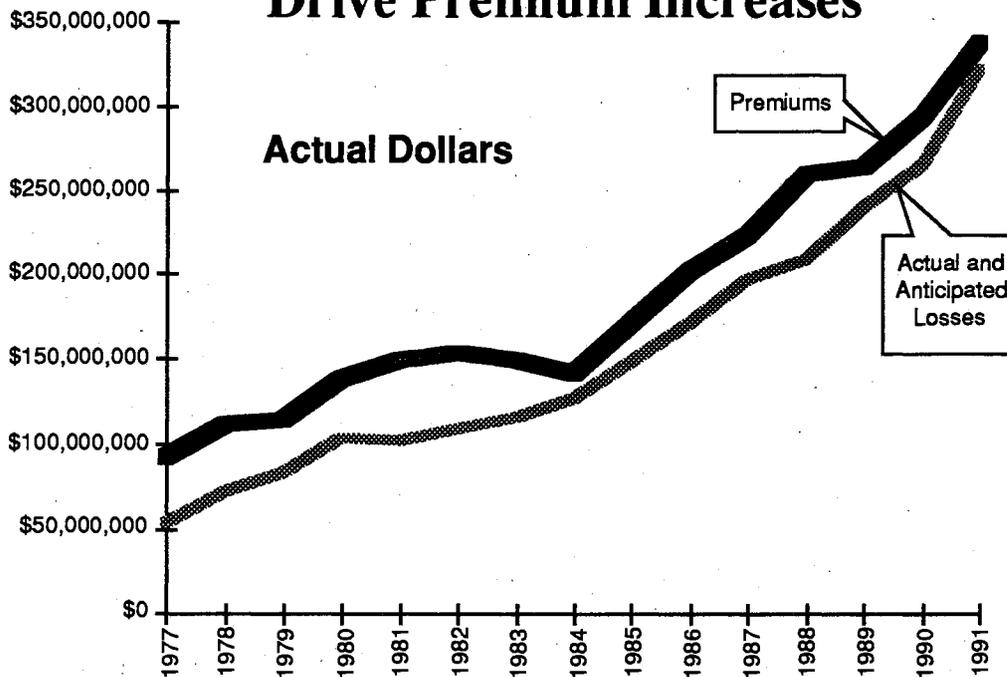
As the table shows, Kansas' total premiums paid increased by 45 percent between 1986 and 1990, or in the bottom third of the 38 comparison states. Kansas' actual and anticipated losses increased by 64 percent, or about the mid-point of the 38 states. Over the five-year period, the change in premiums paid did not keep up with the losses incurred for about half the states.

The chart on page 16 illustrates the changes in premium payments and estimated and actual losses for Kansas alone for 1977 to 1991.

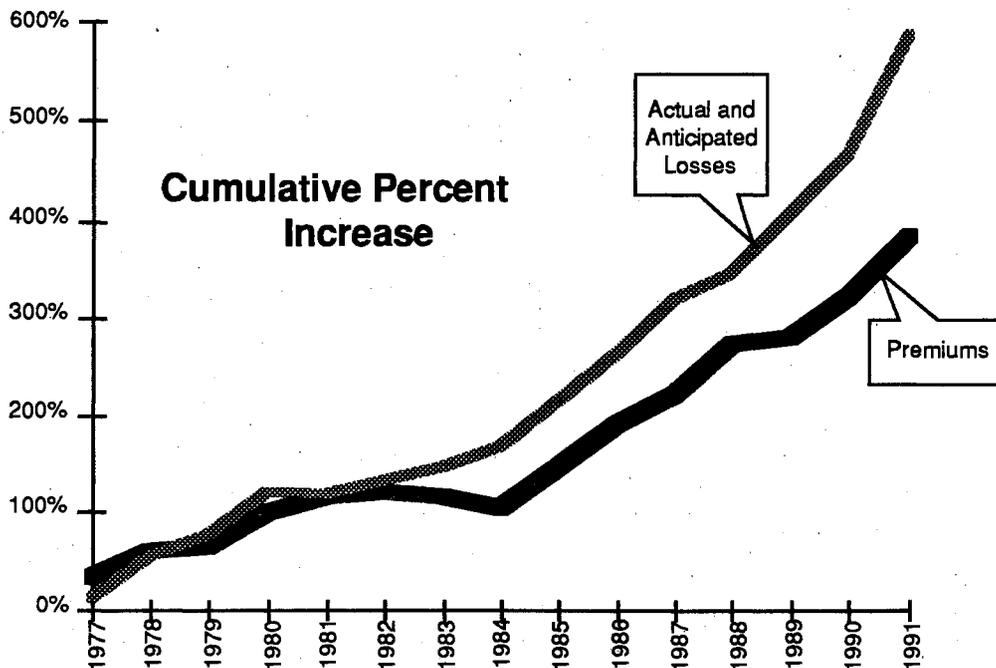
**Comparison of States' Premiums Paid and Incurred Losses for
Workers' Compensation, 1986 to 1990**

State	Premiums		Losses	
	% Change	Rank	% Change	Rank
Indiana	116%	1	96%	5
Wisconsin	94	2	44	27
Maine	92	3	60	19
South Dakota	91	4	76	10
Tennessee	86	5	78	9
Kentucky	82	6	93	6
Colorado	81	7	83	7
South Carolina	80	8	56	21
Iowa	78	9	43	28
North Carolina	73	10	128	1
Georgia	72	11	51	24
Illinois	72	12	74	12
Idaho	72	13	58	20
Texas	70	14	50	25
Mississippi	68	15	76	11
Rhode Island	67	16	106	2
Florida	65	17	68	15
Vermont	62	18	69	14
Nebraska	61	19	72	13
Connecticut	56	20	53	22
Missouri	56	21	60	18
Arkansas	52	22	66	16
Alabama	50	23	82	8
Oregon	47	24	-12	36
Kansas	45	25	64	17
District of Columbia	44	26	21	31
New Hampshire	34	27	53	23
Virginia	31	28	44	26
Utah	29	29	97	4
Louisiana	28	30	3	35
Michigan	26	31	39	29
Hawaii	24	32	102	3
New Mexico	22	33	18	32
Alaska	15	34	-40	37
Arizona	12	35	4	34
Maryland	6	36	17	33
Montana	-5	37	-41	38
Oklahoma	-9	38	31	30

Workers' Compensation Insurance Losses Drive Premium Increases



From 1977 through 1991, workers' compensation premiums increased from about \$92 million to about \$339 million. Losses increased from \$52.4 million to \$322.7 million. As the top chart shows, losses roughly paralleled premiums paid for those years. The bottom chart shows that losses increased at a faster rate than premiums. By 1991, premiums had grown by about 386 percent, an average increase of about 12 percent a year. Losses had grown a total of 587 percent, or an average of about 14 percent a year. In other words, losses have increased at a faster rate than premiums over the last 15 years, suggesting that premiums will continue to be driven upward in years to come. Finally, the leveling-off of premiums that occurred in 1988 occurred because of anticipation that changes to the law in 1987 would reduce losses. That reduction did not materialize.



In general, the level of workers' compensation benefits did not appear to play a major role in premium increases. To determine whether the general level of Workers Compensation benefits in a state appeared to have a major impact on the average premiums per \$100 of payroll paid by employers, we reviewed selected benefits in the five states that the National Council on Compensation Insurance listed as having the lowest average premiums during 1992. Those states were Indiana, Nebraska, North Carolina, South Carolina, and Virginia. If the level of benefits played a major role in determining premiums, we would have expected those states to have lower benefits than Kansas, because their average premiums are significantly lower than Kansas' premiums.

When we examined the maximum payout for scheduled injuries, we found that this was not the case. Although all five states had significantly lower average workers' compensation premiums than Kansas, only two—Indiana and Nebraska—had lower maximum payments for most such injuries. The other three states allow significantly higher benefits for most of these types of injuries.

We found similar results when we examined maximum weekly disability benefits for general body injuries in these states. The table below shows those results.

**Maximum Weekly Disability Benefits in Kansas and Five States
With Lower Average Premiums Than Kansas**

	<u>Statewide Average Weekly Wage (SAWW)</u>	<u>Maximum Weekly Payment As a Percent of SAWW</u>	<u>Maximum Weekly Benefit Payment</u>
Nebraska	n/a	n/a	\$265
Kansas	\$385	75%	\$289
Indiana	n/a	n/a	\$328
South Carolina	\$380	100%	\$380
Virginia	\$418	100%	\$418
North Carolina	\$387	110%	\$426

Once again, even though all of the states had lower average premiums, four of the five states have higher maximum weekly disability benefits for these types of injuries.

Officials we talked with in the insurance industry said that a number of other factors, like attorney involvement, make-up of the workforce and payroll distribution, insurance coverage availability, the cost of assigned risk policies, rate filings, and the number and severity of accidents within a state probably have a much larger impact on premiums than the benefit levels within a state.

Conclusion

In general, it appears that Kansas' experience with workers' compensation premium increases is not greatly different than that of other states. Premium rates have increased about 65 percent between 1986 and January 1992, but a number of other states had higher increases--14 states had premium rate increases in the triple digits. Increases in workers' compensation premiums appear to be paralleling increases in costs. Benefits available to injured workers in Kansas are not significantly different than benefits offered in other states, and those benefits have not changed significantly in the last few years.

Have Changes in Federal or State Law Over the Years Contributed to the Rising Cost of Premiums?

No federal law directly governs state workers' compensation programs. Changes made in Kansas laws have certainly contributed to rising premiums for workers' compensation coverage, but other factors like rising medical costs also have had a major impact on premium levels. Over the last dozen years, statutory changes have increased the maximum benefits in certain cases, revised provisions for determining eligibility and benefits, and made vocational rehabilitation services mandatory for some injured workers. In addition, recent Kansas court decisions have broadened the application of workers' compensation laws and contributed to higher costs (and thus higher premiums) for the program. These and other findings are discussed in the following sections.

Changes in State Law Have Raised the Maximum Benefits for Workers' Compensation Claims

We reviewed changes made in State workers' compensation laws in the last decade. In general, we found that no significant changes have been made concerning which workers are covered by the program. However, several changes made in 1987 have increased the exposure of the workers' compensation program, and thus the premiums required to support the program.

For a permanent total disability, maximum compensation was increased from \$100,000 to \$125,000. The maximum benefit for a permanent total disability was raised from \$100,000 to \$125,000 in 1987. The National Council on Compensation

Americans With Disabilities Act

Public Law 101-336, commonly known as the Americans With Disabilities Act of 1990, establishes a comprehensive law against discrimination of disabled persons. This law covers employment, public services and accommodations, telecommunications, and state and local government services; however, it is not significantly different from the Rehabilitation Act of 1973. The one major difference is that the Americans With Disabilities Act contains a variety of enforcement avenues available to remedy discrimination. The 1990 Act took effect July 26, 1992 for employers with 25 or more employees, and will take effect July 26, 1994, for employers with 15 or more employees.

In employment situations, the law prohibits discrimination, but does not mandate hiring handicapped individuals who are not able to perform the requirements of a specific job or who do not have the required skill, experience, or education for the job. If a handicapped individual

is hired, the employer is required to make reasonable workplace provisions for the individual. The employer must not discriminate in pay, advancement, fringe benefits, or discharge between handicapped and non-handicapped individuals. In essence, the compensation and fringe benefit package the employer provides must be neutral to handicap and treat all employees equally.

Workers' compensation is a part of the fringe benefit package. It is not yet clear whether this act will have a positive or negative effect on workers' compensation costs. Some literature we reviewed suggested that employers will have to make greater use of state second injury funds, as well as pre-existing clauses in their health insurance coverage, in order to keep insurance costs down. Other writers believe disabled workers do not add to injury claims and even may have better than average work-related safety records.

Many of Those Involved in the Kansas Workers' Compensation Process Are Dissatisfied with Vocational Rehabilitation

We interviewed insurance company representatives, attorneys, and administrative law judges to get their opinions about workers' compensation in Kansas. All generally agreed that there were problems concerning vocational rehabilitation. Following are a sample of their comments and concerns:

Insurers:

- Vocational rehabilitation is used as a threat by claimant attorneys to obtain more settlement money. People tend to use vocational rehabilitation to increase their settlement value. Vocational rehabilitation is not a popular concept and all parties try to avoid it.
- We should try to do away with mandatory rehabilitation. There is no need for it if the employee can be placed in a job with a comparable wage.

Administrative Law Judges:

- Vocational rehabilitation assessments are not effective and unneeded, repetitive medical examinations and diagnostic tests are being conducted. Claimant attorneys are using vocational rehabilitation to increase compensation awards by about \$4,000 to \$6,000, particularly with cases involving a scheduled injury. The Legislature needs to

remove the mandate for vocational rehabilitation and make use of existing State resources such as those available through Social and Rehabilitation Services and the Job Training Partnership Act.

- Vocational rehabilitation is an unmitigated failure. There needs to be a person in charge of the rehabilitation program who can administer the program as the rehabilitation statute was written.
- Vocational rehabilitation is the biggest problem in that there is a great deal of time and effort expended, but often this effort does not lead to a job for the worker.

Attorneys:

- Vocational rehabilitation is expensive and is not working. There is not much benefit actually received by the claimant. Many people pocket the money or spend it on other than rehabilitation.
- Vocational rehabilitation is not working as intended. The cost of the program is out of proportion to the benefits received.
- The 1987 amendment has had a significant impact on the vocational rehabilitation issue. Vocational rehabilitation costs a lot more than it is worth. In practice, awards have increased causing a negative impact on insurance premiums, and legal costs have increased due to increased [legal] depositions needed.

Insurance 1992 Statistical Bulletin reported that in 1987 Kansas had four permanent total disability cases per 100,000 workers. Therefore, this change probably had little or no impact on the overall cost of the workers' compensation program. No information was available about how much actually has been paid in permanent total disability cases.

For other types of disabilities, maximum compensation was increased from \$75,000 to \$100,000. Maximum compensation levels for permanent partial, temporary partial, and temporary total disabilities were raised from \$75,000 to \$100,000 in 1987. The National Council on Compensation Insurance estimated in 1987 Kansas had 702 permanent partial disability cases and 1,343 temporary total disability cases per 100,000 workers. No estimate was available for the number of temporary partial disability cases. Because partial disabilities and temporary total disabilities occur much more often than permanent total disabilities, this increase in maximum compensation probably had a more significant impact on overall costs.

For a work-related death, maximum benefits were increased from \$100,000 to \$200,000. Dependents of a deceased worker receive benefits based on two-thirds of the worker's average weekly wage. The law specifies the length of time that benefits

must be paid to a worker's spouse, children, or other dependents. The maximum amount that can be paid was raised from \$100,000 to \$200,000 in 1987. The National Council on Compensation Insurance estimated in 1987 there were eight work-related fatalities per 100,000 workers in Kansas. No information was available about how much was paid in those cases, but the overall impact on costs was probably not significant.

In 1987, the Legislature Increased the Requirements for Vocational Rehabilitation of Injured Workers, Which Reportedly Has Increased Costs

The major purposes of the 1987 changes to the State workers' compensation law included restoring the injured employee's ability to perform work in the open labor market and to earn comparable wages. The 1987 changes mandated that vocational rehabilitation services be offered to injured workers who remained off work for 90 days or more. The 1987 law established the following priority of rehabilitation goals:

- (1) Return the employee to the same work for the same employer
- (2) Return the employee to the same work, with accommodation, for the same employer
- (3) Return the employee to other work, with or without accommodation, for the same employer
- (4) Return the employee to the same work for another employer
- (5) Return the employee to other work for another employer
- (6) Provide vocational rehabilitation, re-education, and training

In passing the mandatory vocational rehabilitation law, the Legislature recognized that the initial costs of evaluation and vocational rehabilitation (if necessary) would go up as more workers took advantage of this opportunity. However, the Legislature and other groups hoped that the higher initial costs would be offset by getting more people back to work, thus reducing or eliminating their disability payments.

Vocational Rehabilitation Is Not Always Useful or Effective: An Example

A workers' compensation official provided us with the following example of a case in which vocational rehabilitation resources seem to have been wasted:

A middle-aged worker developed bunions over the course of many years. Her job required walking as part of her usual duties, and upon the advice of her attorney she filed a compensation claim after having the bunions removed. The administrative law judge found the worker to be entitled to workers' compensation benefits because walking aggravated the bunions.

Workers' compensation benefits paid the claimant's medical bills, and she was referred for vocational rehabilitation. The claimant's attorney argued that she would not be able to return to work because she could not walk long distances. Two doctors said the claimant was permanently disabled and should find other work as a result of not being able to walk.

Through the vocational rehabilitation provider, the claimant was trained and placed in another job that could be performed at comparable pay. At this point, a settlement hearing was held, the claimant received \$19,000 as full and final settlement for her permanent disability, and the case was closed.

Subsequently, the claimant obtained a full release from her doctor, and six weeks later demanded to be reinstated in her old job. Because she left her old job as the result of a disability, her employer was forced to take her back.

According to the Division of Workers' Compensation, the vocational rehabilitation costs for vocational rehabilitation cases closed during the past three years have more than doubled. Each fiscal year, the Division publishes an annual statistical report based on information it receives from vocational rehabilitation vendors that includes the number and cost of rehabilitation cases closed that year. We did not audit the reliability of these figures, but summarized them below for informational purposes.

Reported Costs of Vocational Rehabilitation Cases

<u>Fiscal Year</u>	<u># of Cases Closed with Cost Data</u>	<u>Total Cost Reported (a)</u>	<u>Avg. Cost Per Case (a)</u>
1990	1,053	\$2,594,981	\$2,464
1991	1,476	\$4,647,940	\$3,149
1992	1,616	\$5,983,261	\$3,703

- (a) The costs shown here include charges for evaluations, preparation of rehabilitation plans, and actual rehabilitation services for injured workers.

As the table shows, the total vocational rehabilitation costs reported for these cases rose from about \$2.6 million in fiscal year 1990 to nearly \$6 million in fiscal year 1992. These figures do not include the transportation costs that injured workers may have incurred, nor the additional disability benefits that may have been paid on these cases. According to Kansas law, vocational rehabilitation may increase the maximum disability period for some types of injuries by six months.

People we interviewed said that vocational rehabilitation often resulted in unnecessary costs, increased the amount of litigation, and was used to get higher settlements from employers. We interviewed Division of Workers' Compensation officials, other State officials, insurance company officials, and attorneys who handled workers' compensation cases. Many of their comments are summarized in the box on page 20.

Most officials told us that vocational rehabilitation costs were too high. For example, one judge said there was a general misunderstanding that vocational rehabilitation was mandatory in all cases, rather than being the sixth and last priority under the law. Others we talked to told us vocational rehabilitation was causing more attorneys to get involved in workers' compensation cases, and had significantly increased litigation.

One State official also told us that, during the negotiation for settlement of a workers' compensation claim, the claimant's attorney may ask for additional money to offset the cost of vocational rehabilitation services that would have to be provided if the claim were not settled. The official considered this tactic to be almost like blackmail. Another State official said that many times vocational rehabilitation is merely used as a "bargaining chip" to increase the value of a claim.

An administrative law judge estimated that claimants' attorneys have used vocational rehabilitation to increase total compensation awards by about \$4,000-\$6,000 per case.

Because of data limitations, it is difficult to estimate the cost impact of statutory changes. The Division of Workers' Compensation does not have information to make determinations about the number of cases in which the higher maximum benefits applied, or the amounts paid to claimants in those cases. Likewise, the net impact of the new vocational rehabilitation requirements cannot be quantified. However, a national workers' compensation premium rating group estimated that statutory changes for 1980-1991 increased benefit costs in Kansas by only about three percent. This estimate may be somewhat low, however, because it did not include the impact of court interpretations or actual application of the law in the workers' compensation system. Some of those court interpretations are discussed in the next section.

Interpretations of State Law by the Kansas Courts Have Broadened the Definition of Work Disability and May Have Increased the Total Costs of Claims

We reviewed workers' compensation decisions made by Kansas appellate courts over the past 10 years, and found that several of those cases have made it easier for injured employees to receive compensation. Before 1987, Kansas courts generally interpreted ambiguous statutes in favor of the worker if that interpretation was consistent with legislative intent. An amendment passed by the 1987 Legislature was intended to "level the playing field," so that provisions of the workers' compensation act would be applied impartially to both employers and employees.

Two recent decisions of the Kansas Supreme Court could result in higher costs for the State's workers' compensation system. One case involved the definition of a permanent partial disability, and the other dealt with benefit limits for repetitive-motion injuries. These cases are discussed more fully below.

The Supreme Court's interpretation of the 1987 law may make more people eligible for long-term disability benefits, and may increase the average payments. Before 1987, the test for determining whether a worker had a "permanent-partial" disability was the extent to which the worker could no longer perform work of the same type and character as at the time of the injury.

In 1987, the law was changed so that the level of disability was based both on the employee's ability to perform work in the open labor market, and to earn comparable wages. However, the 1987 amendments established a presumption that the employee had no "work" disability (that is, would not be compensated simply because he or she could no longer perform many jobs in the open labor market) if he or she worked for comparable wages after the injury. One purpose of that change was to prevent a claimant from

changing job functions and earning the same (or higher) wages, but still receiving a maximum award for disability.

Division of Workers' Compensation officials interpreted this law as an "either-or" situation, but indicated that if the worker earned any wages after the injury, then the "comparable-wages" consideration should apply, not the worker's ability to perform work in the open labor market. However, in a 1990 case, Hughes v. Inland Container Corporation, the Kansas Supreme Court ruled that both parts of the 1987 provision—ability to work and ability to earn comparable wages—must be considered when awarding benefits for permanent-partial disability.

Because of the Hughes decision, it may be easier for injured workers to qualify for permanent disability benefits, even if they can earn wages comparable to their pre-injury wages.

A recent study by the National Council on Compensation Insurance (the Tillinghast Closed Claims Study) indicated that claims costs increased by about 33 percent because of the Hughes case. We have not reviewed that study in detail (because the National Council would not share its data), but have several reasons for questioning the 33 percent estimate. First, some of the claims used in the study were not permanent-partial disability claims, so the Hughes case would not apply. Second, the effects of generally higher wage levels over time were not factored out of the estimate. For these reasons, it appeared to us that the 33 percent cost increase could be overstated.

In a related issue, after the Hughes case district courts in Kansas have been using different methods to determine the percentage of an injured worker's disability. Such inconsistent application raises the possibility that workers with identical injuries could be treated differently under the current law. In addition, some of the administrative law judges told us that the uncertainty in the calculation of permanent partial disability benefits has increased the length and cost of litigation.

In a 1992 case, Stephenson v. Sugar Creek Packing, the Kansas Supreme Court ruled that lower benefit limits for repetitive motion injuries were unconstitutional. Before the 1987 amendments to the workers' compensation law, repetitive-use injuries (such as carpal tunnel syndrome) were considered to be a disability of the whole body. In 1987, the law was changed to classify such conditions as "scheduled" injuries, with lower benefits than under the prior law. The legislative purpose for the 1987 amendment apparently was to reduce the cost of workers' compensation insurance and the cost of doing business in Kansas.

In 1992, the Kansas Supreme Court ruled that the distinction in benefits (with lower benefits for injuries caused by repetitive motion) was unconstitutional. The Court said that discriminating against an injured worker based solely on whether the injury resulted from repetitive motion rather than a single trauma was neither fair nor reasonable. As a result, people with repetitive motion injuries now are eligible for the higher benefits associated with a partial or total disability of the whole body.

In addition to the Hughes and Stephenson cases, several other less significant cases have been decided in favor of the injured workers or their dependents.

- **Baxter v. L.T. Walls Construction Company** (1987): A district court found that an injured worker was not eligible for compensation because he had earlier been found to be 100 percent disabled. The Kansas Supreme Court reversed the lower court's decision and ruled that the 100 percent rating for the previous disability did not prevent the worker from receiving benefits for the second injury. The court said a disabled worker could receive disability benefits more than once, but could not receive more than the maximum weekly benefit provided by law.
- **Killingsworth v. City of Wichita** (1992): The Kansas Court of Appeals ruled that a deceased firefighter's child qualified as "wholly dependent" under the definition in the Workers' Compensation Act, even though the child had never received financial support from the father. The Court of Appeals stated that if more than one construction was possible, compensation statutes were to be interpreted in favor of the worker, without mentioning the 1987 amendment that required the Act's provisions to be applied impartially to both employers and employees.
- **Brown v. City of Wichita** (1992): The Director of the Division of Workers' Compensation initially had found that the injured worker did not qualify for disability because of his voluntary retirement. The Kansas Court of Appeals decided that the claimant's retirement did not affect his permanent partial disability benefits.

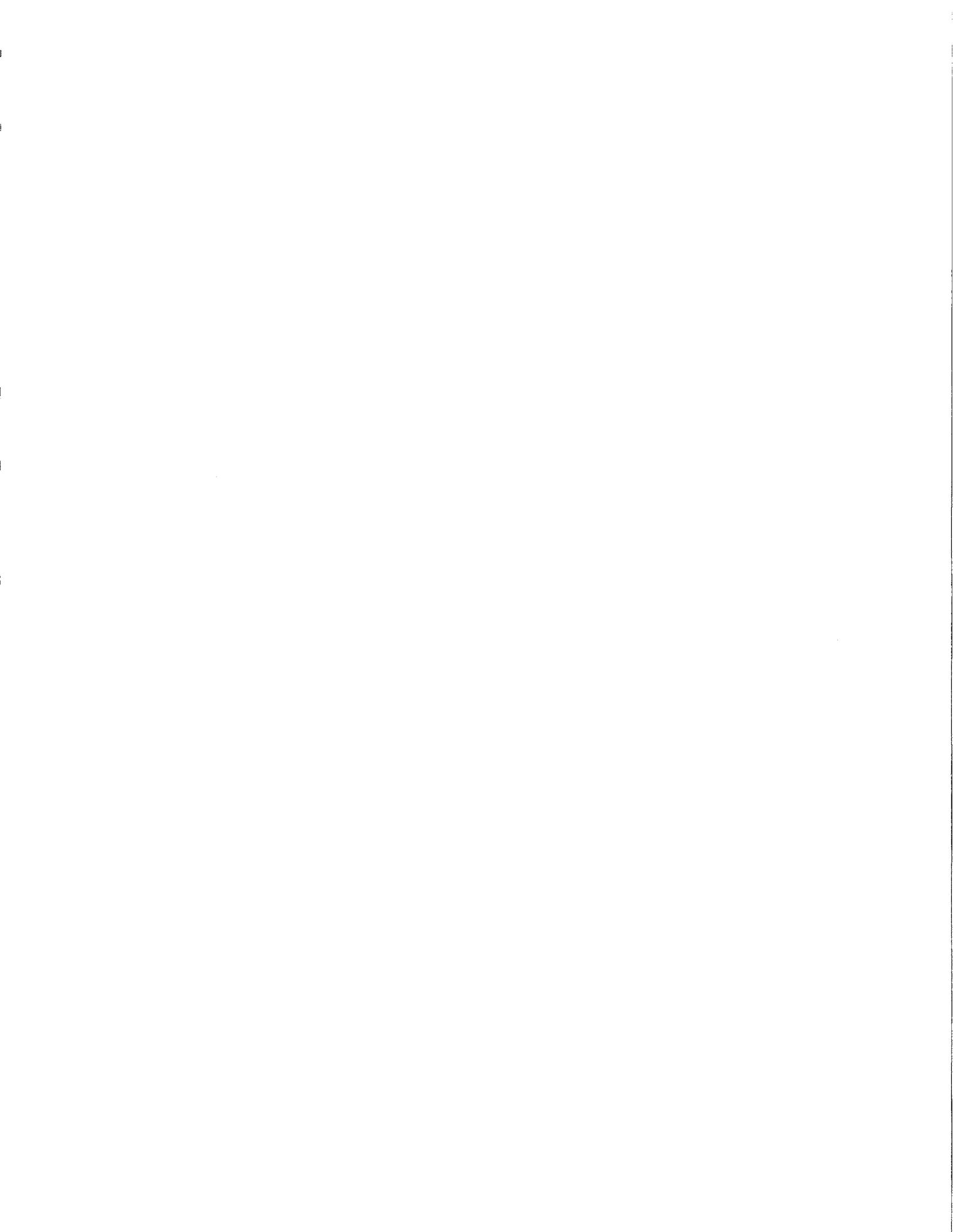
Conclusion

Changes in State law, along with court interpretations of the law, have combined to increase the cost of the workers' compensation program in Kansas. Because of the absence of specific and reliable information, we could not estimate the impact on costs or premiums that has been caused by changes in the law or court interpretations of the law. In reviewing these areas, we were told that two of the statutory changes enacted in 1987 have not worked very well. First, the persons closest to the program said the mandated vocational rehabilitation of injured workers has caused higher costs and higher settlements but has not been successful in putting injured employees back to work. Second, the law's ambiguities in the calculation of permanent partial disability benefits have resulted in higher litigation costs and inconsistent interpretations by the district courts.

Recommendations

1. To ensure that the Legislature's intent is carried out correctly and consistently throughout the State, the Legislature should:
 - a. review the Hughes case and the statutory definition of permanent partial disability, and make any statutory changes necessary to reflect current legislative intent; and
 - b. consider clarifying the statutory language for determining the extent of workers' disability in permanent partial disability cases, so that district courts can apply the criteria consistently across the State.

2. The Legislature should consider amending current State law to eliminate the mandatory provisions of vocational rehabilitation. In addition, the Legislature should consider whether vocational rehabilitation serves its purpose in returning injured employees to the workforce in a cost-effective manner. If existing State law does not serve this purpose, the Legislature should revise State law to make vocational rehabilitation fulfill its purpose. As part of its deliberations, the Legislature should consider the information provided in question three of this report regarding vocational rehabilitation.



What Cost-Containment Measures Have Other States Enacted To Help Control the Rising Costs of Workers' Compensation Insurance?

We found that increases in workers' compensation expenditures are a problem across the country, but other states have instituted a variety of measures to try to control those costs. States are trying to hold the line on costs for claim litigation, medical care, and vocational rehabilitation. States also are trying to cut the number of claims filed by enhancing workplace safety, thus reducing the number of accidents, and by reducing fraud.

To answer this question, we first determined the major problems in the Kansas workers' compensation system, and then looked to see how other states have addressed those problem areas. We reviewed literature on workers' compensation in all 50 states. We then conducted interviews and in-depth reviews on four states that were reported to have been active in implementing cost-containment measures: Florida, Oregon, Washington, and Wisconsin. We also contacted officials in other states to inquire about measures they had taken to control fraud. The following sections describe what appear to be the main problem areas in the Kansas system, and the strategies that states have instituted to control costs in these areas.

Major Players in the Kansas Workers' Compensation System Most Often Identified Five Problem Areas

We first interviewed or surveyed representatives of the major groups involved in the workers' compensation claims process in Kansas: insurers, attorneys (for both sides),

Administrative Law Judges, Attorneys, and Insurance Company Representatives Expressed a Variety of Other Concerns About Workers' Compensation in Kansas

The administrative law judges, workers' compensation attorneys, and insurance company representatives we interviewed each saw problems in different areas of workers' compensation in Kansas. All groups agreed that medical costs were a major contributing factor to the high costs of workers' compensation.

Administrative law judges expressed a need for changes including a clearer definition of work disability, removal of the administration of the Act from the political process, and concurrent terms for the Director of the Division and the Governor.

Attorneys said that not much fraud was occurring in workers' compensation in Kansas; however, they had concerns with workers'

compensation that included claimants exaggerating the extent of their injuries, reimbursement from the second injury fund if an employee is proven to have received money improperly rather than reclaiming it from the employee, and physicians referring patients to a lab in which they have a financial interest.

Insurance carriers generally agreed that fraud was not a major problem in Kansas, but they would like to see a fraud law enacted that would include penalties for such things as overstating medical costs, falsifying injury claims, exaggerating the extent of an injury, and employers understating payroll to get lower premiums. To make the fraud law effective, insurers said that lawmakers would also have to address who would monitor and enforce the law.

employers and industry representatives, administrative law judges, and officials of the Division of Workers' Compensation. We also reviewed national literature on workers' compensation. The sources we consulted identified a number of areas of concern, many of which have contributed to the rising cost of workers' compensation. Those concerns generally fell into the following areas:

- **The workers' compensation process is too long and encourages litigation.** The workers' compensation hearing process starts with a preliminary hearing, and appeals may go all the way to the State Supreme Court. Although workers' compensation is intended to be a no-fault system, claims are frequently litigated. See Appendix G for more information on the workers' compensation claims process in Kansas.
- **Medical costs are largely uncontrolled.** In 1990, legislative changes to K.S.A. 44-510 established a fee schedule advisory panel to assist the Division of Workers' Compensation in establishing a medical fee schedule. That advisory panel approved a fee schedule on January 6, 1993. However, there has not been a fee schedule in the past and the new one is not yet in effect.
- **Vocational rehabilitation is too costly and is often ineffective.** Most vocational rehabilitation dollars are spent on vocational assessments rather than on actual rehabilitation, and often vocational rehabilitation is used as a bargaining chip to obtain bigger settlements.
- **The Kansas workers' compensation system does not pursue fraudulent cases.** There is no workers' compensation fraud statute in Kansas. The State does have existing criminal statutes which cover fraud, but prosecutions for workers' compensation fraud seldom if ever occur under those laws.
- **Workplace safety receives inadequate attention.** Workplace safety is important because the best way to reduce workers' compensation costs is to reduce the number of accidents.

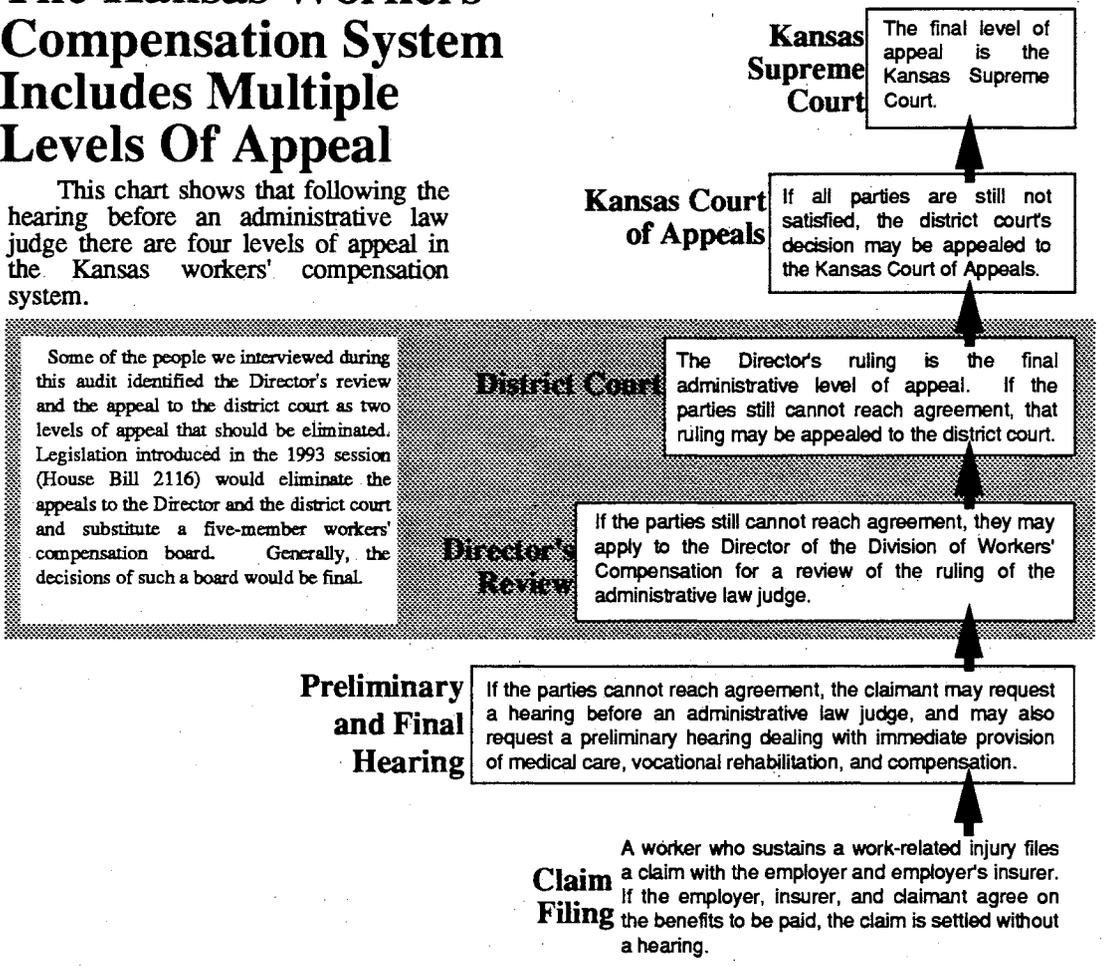
Our review of State law, administrative procedures, agency practices, and workers' compensation literature tended to confirm these issues as major problems. Thus, we concentrated our review of other states' cost-containment measures in these five areas.

Some States Have Taken Steps to Shorten the Lengthy Appeals Process and Reduce the Amount of Claim Litigation

Some of the people we talked to during our review told us that certain aspects of the Kansas workers' compensation system tend to encourage excess litigation. As discussed in question two, one of the major pieces of workers' compensation case law (the 1990 *Hughes v. Inland Container Corporation* case) required that both reduction in the claimant's ability to perform work in the open market, and the claimant's ability to earn comparable wages, must be considered in determining the extent of permanent partial disability. The final amount of disability is expressed as a percentage, but the statute is silent on how the percentage is to be calculated. Because this two-pronged test requires the consideration of some subjective evidence by the administrative law judge,

The Kansas Workers' Compensation System Includes Multiple Levels Of Appeal

This chart shows that following the hearing before an administrative law judge there are four levels of appeal in the Kansas workers' compensation system.



it may invite disagreements between the parties and may result in inconsistent judicial rulings. We have been told that inconsistent rulings by district court judges may invite excessive litigation by tempting some claimants to "roll the dice" in hopes of drawing a liberal judge.

Another problem with the hearings process is its length. We were told by those we spoke with—including some attorneys—that the workers' compensation claims process has too many levels of appeal. The graphic above illustrates the number of potential steps in the process. As the graphic shows, a claimant (or defendant) could take a disputed claim through four levels of appeal. Throughout the appeal process, litigants have to pay for an attorney, and possibly pay for expert witnesses and other costs as well.

We asked workers' compensation officials in other states what actions their states had taken to forestall or otherwise control workers' compensation litigation. Workers' compensation literature contained references to other cost-control measures

in this area. As the following table shows, we identified six major cost-containment strategies relating to simplifying or streamlining the hearing process, or avoiding hearings or litigated claims.

Measures Taken by States to Simplify the Hearings Process

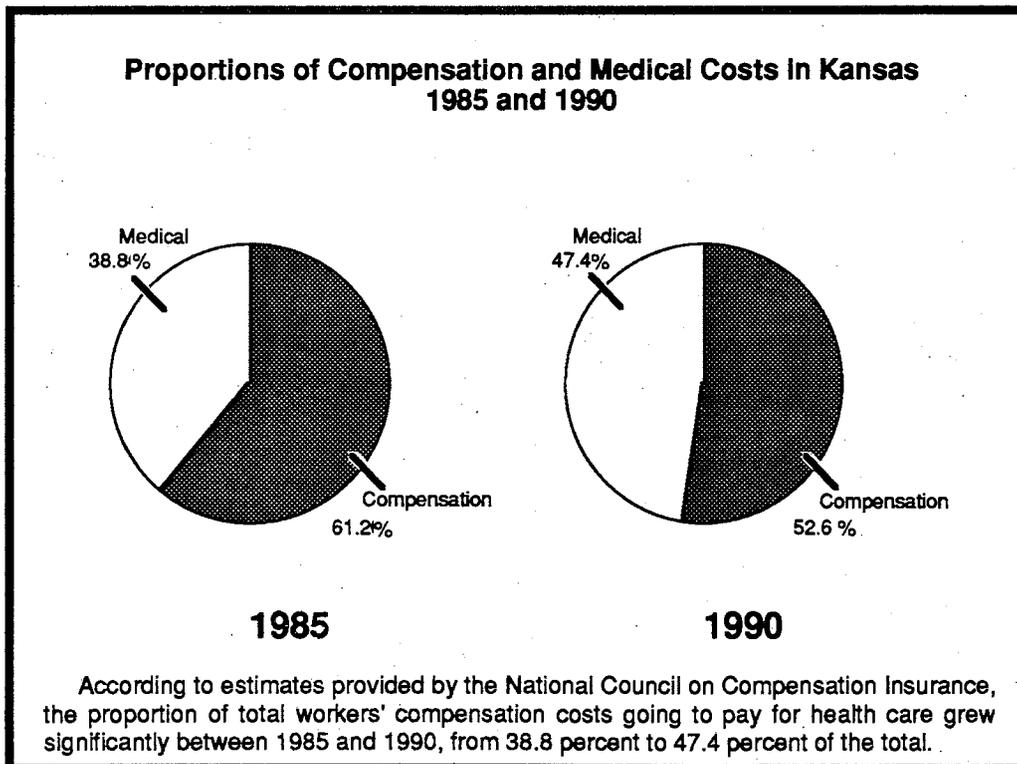
<u>Cost-Containment Measure</u>	<u>Purpose</u>
<p>1. Standardize the process for determining the extent of a claimant's disability. The claimant's doctor performs whatever medical tests are needed to determine how much disability the worker has sustained. Then, state workers' compensation officials translate those medical test results into a decision about how much disability exists. [Oregon]</p>	<p>This procedure provides more consistent judgments about how disabled a claimant really is. The procedure discourages "shopping" for multiple medical opinions about the degree of disability, as well as disagreements between the litigants' medical experts. By providing more consistent disability decisions, the amount and cost of litigation can be reduced.</p>
<p>2. Have a state group reconsider findings regarding the extent of a worker's disability. In cases where the injured worker, employer, or insurer disagrees with the finding about how much disability exists, this procedure requires the finding to be reconsidered by a panel of medical experts employed by the state. Only if this second finding is not acceptable to the claimant may a hearing be held. [Oregon]</p>	<p>This process may result in more consistent decisions than a hearing or trial, and is reportedly cheaper because it results in fewer hearings. The amount of litigation can be reduced when the amount of disability is the only disputed issue.</p>
<p>3. Require the use of standardized disability guidelines at all levels of appeal. Some jurisdictions use standardized medical guidelines to evaluate the amount or severity of an injured worker's disability. [Oregon]</p>	<p>Would prevent new doctors or opinions from being brought in later if the initial disability findings are appealed.</p>
<p>4. Provide arbitration services. Such a service provides neutral arbitration for injured workers, employers, and insurers. [Wisconsin]</p>	<p>Reducing the number of disputed claims reduces the number of hearings held, witnesses called, attorneys paid, and other costs associated with litigating a claim.</p>
<p>5. Establish a Workers' Compensation Board. Several states have established such a board. [Oregon, others]</p>	<p>Eliminate some levels of appeal, and possibly provide more consistent decisions.</p>
<p>6. Eliminate discovery as a legal tactic. [Wisconsin]</p>	<p>Wisconsin officials said that state law for many years has not allowed discovery of information; attorneys are not allowed to take depositions or use interrogatories in the workers' compensation system. This has the effect of reducing significantly the cost of litigation in workers' compensation cases.</p>

Oregon officials said that their procedures for standardizing the rating process has reduced the number of permanent disability claimants who appeal from 20 percent in 1990 to about seven percent in 1992. Officials said that although the reconsideration process adds another administrative layer, the overall system is still less expensive because fewer hearings are held. After 20 consecutive years of increases in Oregon, hearing requests have dropped by 36 percent from 1990 to 1992. In contrast, workers' compensation cases awaiting hearings in Kansas increased 13 percent during the same period. Kansas officials told us that the history of rating panels such as Oregon's has not been good, but that if they worked as they theoretically are supposed to, such a system could save a "ton of money."

Wisconsin's Workers' Compensation Division has a section that assists people with their claims. By explaining the parties' rights and answering questions about the process, this section has been able to reduce the number of contested claims and required hearings, hence reducing costs. Officials in the Kansas Division of Workers' Compensation said that the Division used to do more in the area of trying to resolve disputed claims before a hearing, but in recent years the volume of cases has limited the four-person staff's ability to do much dispute resolution. The Division now gets about 2,000 calls each month for such assistance.

Some States Are Taking Steps to Control Workers' Compensation Medical Costs

As shown in the following chart, from 1985 to 1990 medical costs consumed an increasing portion of the workers' compensation dollar in Kansas.



As the chart on the previous page illustrates, medical costs accounted for nearly 39 percent of workers' compensation benefit dollars in 1985, but by 1990 medical expenditures had grown to about 47 percent of the total.

Kansas has taken the first steps to limit health care expenditures. In 1990, changes to K.S.A. 44-510 established a fee schedule advisory panel to assist the Division of Workers' Compensation in establishing a medical fee schedule. That advisory panel approved a fee schedule on January 6, 1993, but it will not become effective until after regulations that implement the schedule are adopted. Kansas regulations currently require that charges for medical services be at a level that is "reasonable and customary for a particular community."

Kansas has adopted two other cost-control strategies, as well. First, Kansas law permits the employer to select the doctor to be used for workers' compensation claims (a strategy designed to ensure that the treatment provided is appropriate to the injury). Second, the Division encourages insurers to negotiate discounts from hospitals and provider groups.

In our review of cost-containment measures in use in other states' workers' compensation programs, we found that some states had concentrated considerable effort on controlling health-care expenditures. The table on the facing page describes the seven major cost-control strategies in use.

One 50-state study we reviewed showed that restricting the employee's ability to choose or to change the provider is the most common cost-containment strategy; 40 jurisdictions (including Kansas) place some restriction on the employee's selection or change of provider. Many states regulate the fees of medical providers and hospitals. Only 13 of the 27 states with medical fee schedules enforce them with a bill review program, and five of these mandate that payers review bills for proper charges.

Other States More Closely Control Vocational Rehabilitation Services and Costs

K.S.A. 44-510g was revised in 1987 to require that vocational rehabilitation services be provided to any employee who has remained off the job for at least 90 days as the result of a work injury. This statutory revision was consistently cited by those we interviewed as a major problem area. The concerns included: the mandatory nature of the vocational rehabilitation requirement; its frequent use as a "bargaining chip" to increase settlements; its excessive cost; and its lack of proven success as a way of returning injured workers to the workforce. Further, a Division official told us that vocational rehabilitation has significantly increased litigation.

The Director of the Kansas Self-Insurance Fund, the agency that pays workers' compensation expenses for State employees, told us that he recently reviewed a sample

Measures Taken by States to Contain Medical Costs

<u>Cost-Containment Measure</u>	<u>Purpose</u>
1. Conduct utilization reviews. Officials review medical care provided to claimants based on established treatment standards for all medical services. [14 states]	The purpose of utilization review is to reduce medical costs by disallowing payment for unnecessary or improper services.
2. Establish medical fee schedules. These schedules and other fee-limiting mechanisms, such as diagnostic-related groups, set a maximum allowable fee for procedures performed by providers such as doctors, dentists, chiropractors, and hospitals. [33 states have or are developing]	Limiting the fees providers may charge controls the amount the workers' compensation system will pay for a given service. Some mechanisms limit fees based on the procedures performed (e.g., an appendectomy), while others base reimbursement on the patient's diagnosis (e.g., appendicitis).
3. Implement bill review. Officials examine patient bills to verify whether charges conform to the fee schedule, whether providers submitted duplicate bills, and whether they actually performed the services billed. [13 states]	Bill reviews help reduce medical costs by ensuring that provider billings are correct, and that charges are not excessive.
4. Eliminate some unnecessary treatments. Certain treatments, such as some chiropractic care, may make a patient feel better but do not necessarily help return an employee to work. [Oregon]	Eliminating such treatments would save whatever money is spent for such services.
5. Require the patient to obtain prior approval from the insurer for expensive services such as hospitalization and surgery. [Utah, Washington]	Could help control the insurer's costs, thereby reducing premiums.
6. Institute a managed-care pilot project. [Florida, New Hampshire]	Florida anticipates a more efficient delivery of services with significant savings.
7. Require the use of generic drugs when treating workers' compensation patients. [Oregon]	Could save money over the cost of brand-name drugs.
8. Restrict the workers' choice of health-care provider. Some states limit the number of times a worker may change physicians or types of providers. As well, workers may be limited to a physician selected by the employer. [40 states]	Limiting the types of physicians or times an employee may change physicians ensures that the treatment provided is appropriate to the injury and provided by a qualified physician.

of 28 closed State employee claims in which vocational rehabilitation services had been provided. He said that review showed that the average time to complete an assessment and prepare a vocational rehabilitation plan took 35 weeks and cost the Fund \$3,257. The second phase, implementing the plan, took an average of 19 weeks and cost about \$1,200. For the same period, the Fund paid an average of \$10,227 for temporary total disability

and had other costs of \$3,642 for such things as medical expenses, mileage, and tuition charges. The average total cost of the vocational rehabilitation cases was about \$29,000, but only two people out of the 28 cases went back to work. The average time needed to complete the cases reviewed was 54 weeks. The Director said he thinks the cases reviewed in his study are typical.

State officials pointed out that even if an injured worker is successfully rehabilitated and earns comparable wages as before the injury, the worker can still receive work disability benefits if he or she cannot qualify for as many types of jobs in the open market. In that situation, the injured worker could receive workers' compensation benefits even though the worker has not suffered any actual economic harm.

Workers' compensation literature, and our contacts in Florida, Oregon, Washington, and Wisconsin described five major cost-containment strategies the states used to control costs associated with providing vocational rehabilitation services.

Florida's mandatory vocational rehabilitation program was rescinded in 1989 because officials were dissatisfied with the way the program was working. Officials said that retraining is the most expensive and often least effective way to get people back to work.

Measures Taken by States to Control Vocational Rehabilitation Costs	
<u>Cost-Containment Measure</u>	<u>Purpose</u>
1. Rescind and substitute cheaper types of job training. These could include low-cost group programs that sharpen job-search skills. [Florida]	Alternative job programs may be less costly than individual vocational training.
2. Exclude vocational rehabilitation costs from the insurer's premium calculations. [Florida]	Provides a disincentive for the insurer to refer the claimant for vocational rehabilitation if it is not needed.
3. Change the rules on who may receive services. [Oregon]	Reduces the number of potential recipients of vocational rehabilitation services.
4. Assign vocational rehabilitation evaluations to a state agency. [Wisconsin]	Such evaluations may be cheaper, and litigants may see a state agency as more neutral than a private provider hired by one side or the other (possibly reducing litigation).
5. Make vocational rehabilitation services available but not mandatory. [Florida, New Mexico]	Making services available at the claimant's request would prevent services being wasted on those who do not want or need them.

In 1987, Oregon made substantial reforms to its vocational rehabilitation system. Before 1987, vocational rehabilitation was provided to virtually all permanently disabled claimants; now, the vocational rehabilitation caseload has been reduced from about 10,000 clients to about 2,000. The cut was accomplished by changing program eligibility rules. Currently, if a worker has transferable job skills that allows him or her to hold a job that pays within 20 percent of his or her old wage, that worker is ineligible for vocational rehabilitation.

Several States We Contacted Take a More Active Role in Pursuing Workers' Compensation Fraud

Although there are no reliable statistics concerning the number of workers' compensation claims that are fraudulent, several people we interviewed told us that the State's lack of a workers' compensation fraud law was a problem. Division of Workers' Compensation officials agreed, but said that a more important issue was how such a law would be enforced. Officials noted that although county attorneys could theoretically charge fraudulent claimants under existing law, workers' compensation fraud is not a priority with most local law enforcement officials. Therefore, a fraud statute alone would not solve the problem of workers' compensation fraud—what is needed, officials said, is an assistant attorney general dedicated only to investigating and prosecuting such crimes.

Other states attack workers' compensation fraud in a variety of ways. In addition to our reviews of Florida, Oregon, Washington, and Wisconsin, we contacted officials in a sample of other states that have taken steps to address workers' compensation fraud. The table on the following page shows the nine major cost-containment strategies in the states we reviewed that related to controlling workers' compensation fraud.

The literature reports that at least eight states—California, Colorado, Connecticut, Florida, Louisiana, Massachusetts, Nebraska, and Rhode Island—have recently passed laws aimed at reducing fraud. Washington State has a fraud unit within the Department of Labor and Industries, with staff assigned from the Office of the Attorney General to prosecute employer and provider fraud. However, Washington officials said it was difficult and expensive to prove fraud, and the process generally was not cost-effective. Officials there said that analyzing payment data and identifying suspicious or excessive charges on provider billings is the most cost-effective way to identify fraud. They added that auditing provider billings, combined with statutory authority to recover payments, is the cheapest way to get the insurer's money back. Kansas Division of Workers' Compensation officials agreed that criminal and civil enforcement of workers' compensation fraud are necessary, but said that civil enforcement would be most cost-effective.

Some States Have Made Agencies Responsible for Workplace Safety

In Kansas, the task of making the workplace safe is generally left to insurance companies and individual employers, although the State does have a workplace safety

Measures Taken by States to Control Workers' Compensation Fraud

<u>Cost-Containment Measure</u>	<u>Purpose</u>
1. Enact a workers' compensation fraud statute. This statute would define specific activities as crimes and prescribe punishments. [various]	Defines what specific activities constitute crimes.
2. Create and fund a unit to detect and prosecute fraud. Such a unit might be located in the office of the Attorney General or Insurance Commissioner. [Florida, Washington, California, Oklahoma]	A fraud statute alone may be of little use without resources devoted to its enforcement.
3. Require employees to report outside wages earned. [Massachusetts]	Facilitates prosecution of employees who accepted unreported outside income while receiving workers' compensation benefits.
4. Require insurers to report workers' compensation fraud. [California]	In conjunction with enforcement, could help ensure fraud detection.
5. Permit insurance companies to offset overpayments against future awards. For example, a claimant who was later found to be less disabled than first thought could have future payments reduced to cover earlier payments that were too high. [Colorado, Oregon]	Could reduce insurer's total payout.
6. Establish a workers' compensation fraud hotline. [Oregon]	In conjunction with enforcement, could help ensure fraud detection.
7. Analyze payment data to identify suspicious or excessive charges, and provide statutory authority to recover payments for such charges. [Washington]	Could reduce payouts and discourage excessively high billings.
8. Prohibit providers who violate program rules from ever treating workers' compensation patients again. [Florida]	Florida has the ability to "blacklist" providers.
9. Require that a compensable injury be established by objective medical findings. [Oregon]	That is, complaints of pain or distress by the claimant that could not be confirmed by a doctor would not be allowed.

program. The Industrial Safety Services program in the Department of Human Resources provides inspections, consultations, and training to private- and public-sector employers. The program's budget states that the program also works with the Insurance Department to reduce the number and cost of workers' compensation claims

against the State Self-Insurance Fund. Program officials, however, said that the program does not have the funding or staff to address workplace safety concerns of most State employers. For the private sector, the program performs inspections and consultations only, leaving enforcement of workplace safety regulations to the federal government. One national study we reviewed ranked Kansas 47th of the 50 states on workplace safety and health issues.

The following table shows major actions that states have taken to improve workplace safety, thereby reducing accidents and claims. We identified six specific measures that states have taken:

Measures Taken by States to Improve Workplace Safety	
<u>Cost-Containment Measure</u>	<u>Purpose</u>
1. Authorize employers to establish drug-free workplace programs. [various]	Such programs could reduce workplace accidents.
2. Do not compensate employees for injuries resulting from drugs or alcohol. [Oregon]	This change could reduce the number of claims. (Kansas law disallows compensation for injuries involving substance abuse, but case law has weakened these provisions.)
3. Create a state safety agency. A fully funded agency, with responsibility for consulting with and inspecting workplaces for safety. [New Mexico, Oregon]	This could result in significant declines in workplace accidents, but could be expensive.
4. Review statistics on accident rates by employer, and target those with high accident rates. [Maine]	This action could also reduce accidents by channeling inspections and other safety activities to the most dangerous workplaces.
5. Require insurers and self-insured employers to provide safety and health loss-control consultation programs. [Oregon]	Requiring insurers to assist employers with workplace safety problems could reduce claims.
6. Require that employers establish a safety committee. [Oregon]	Safety committees would address safety issues in the workplace and could act as another way to reduce claims by cutting the number of accidents.

Oregon has developed one of the more advanced safety programs. Specific legislative reforms enacted in Oregon in 1990 included: increased promotion of state safety and health efforts; increased penalties against employers who violate the state safety and health act; a requirement that insurers and self-insured employers provide

Washington State's Efforts To Control Workers' Compensation Costs Required Good Information

Private insurance companies do not write workers' compensation insurance in Washington; all such insurance is provided either by the state, or by approximately 360 self-insured employers. The state has taken a number of measures to control workers' compensation costs in general. Officials told us that the first step in getting a handle on costs was getting good data. Before 1986, Washington's computer data was not organized in such a way that it was useful for analysis, and officials had to spend considerable resources to develop information that would aid in their decisionmaking. The state contracted with private vendors for consulting and technical services in development of some of its cost management strategies. Officials found that the biggest volume of the state's uncontrolled charges were in hospitals, and so concentrated much of their early efforts there. Below are some cost-containment strategies Washington used.

- One of the steps the state took was to develop a diagnostic-related group payment system (commonly known as DRGs). Developing the system required a great deal of data on the time and procedures needed to treat particular conditions. Development of good information for the payment system took two years.
- Officials started doing hospital bill audits, which resulted in significant savings.
- Because Washington hospitals are required to report their costs to the state health department, workers' compensation officials had access to good data on actual hospital costs; officials used this information to develop payment systems that covered the cost of procedures without paying excessive hospital overhead

charges. For example, research showed that a portion of hospitals' charges went to offset bad debts by other patients. The state reimbursement schedule does not pay that bad-debt allowance.

- Washington's workers' compensation program will pay only for conservative, medically necessary procedures.
- Officials reimburse hospital outpatient procedures and the same procedures performed in a non-hospital setting equally. Procedures requiring hospitalization require previous authorization.

Washington has had a fee schedule for doctors since 1986. Injured workers are allowed to use their own doctor. Washington does not use primary care physicians under contract to the state as a way to control costs because, officials said, doctors generally make poor gatekeepers. Instead, the state controls costs through fee schedules, and by requiring prior approval for some procedures.

As a result of these measures, Washington has reportedly saved \$120.8 million since 1985 in workers' compensation costs. Officials said that the most important requirement of their system is sufficient data on which to set reimbursement rates and fee schedules, and to be able to track health care costs and trends. (Kansas' use of private insurers means that the necessary claims data is largely in private hands.) Officials also pointed out that if hospital and other medical cost information is not reported to the State, then another vital piece of information is missing.

safety and health loss-control programs; a requirement that all employers with more than 10 employees establish a safety committee; development of a safety inspection system; and an increase in the size of the Oregon Occupational Safety and Health Administration. A total of 73 positions were added in 1990 for inspections and for consulting with employers on safety issues. These consultations take place without the threat of fines or other adverse actions that loom over actual workplace inspections.

Officials in Oregon said that although it is difficult to establish a causal relationship, it seems that increased emphasis on workplace safety has had an impact on claims and premiums, as evidenced by an almost double-digit decline in the accident rate over the last few years, and a 12.2 percent average decrease in workers' compensation premiums for 1991.

Other Cost-Containment Measures In Use

<u>Cost-Containment Measure</u>	<u>Purpose</u>
1. Allow unsuccessful bidders for state contracts to sue the winning bidder if they can show that the winner understated the firm's payroll or failed to carry adequate workers' compensation insurance. [Florida]	Could remove financial incentive for some contractors to avoid carrying adequate insurance as a way to be more competitive.
2. Allow deductibles for workers' compensation insurance. [Oregon, New Mexico]	Allowing employers to pay small, non-disabling claims themselves could reduce premiums. New Mexico allows deductibles up to \$10,000 at the employer's option.
3. Reduce benefits. [Connecticut]	Would eliminate total payouts.

To date, 23 states and two territories have chosen to administer their own state occupational safety and health programs. Kansas Division of Workers' Compensation officials said that a State-operated safety program seemed to be a "horrendously expensive" way to improve workplace safety.

Conclusion

Many states have taken strong action in recent years to try to control workers' compensation costs by reducing litigation, holding the line on the cost of medical care, improving workplace safety, and so forth. Little information is available to show whether those actions have been effective at reducing costs; in many cases, it is simply too early to tell. Nonetheless, experiences in states like Oregon suggest that such actions can be successful.

In recent years, the Kansas Legislature has considered and struggled with the issue of how to modify or even revamp the workers' compensation system in Kansas to keep its skyrocketing costs from driving employers out of business, or from preventing injured workers from being reasonably compensated for their injuries. The 1993 Legislature has before it a number of bills that would implement some of the cost-containment strategies listed here. Whatever measures ultimately are chosen, the Legislature and the Division of Workers' Compensation will be hampered in their ability to monitor or evaluate these changes' effects on workers' compensation costs. As described in the next question, Kansas lacks both the information and the information management systems needed not just to monitor costs, but simply to identify the areas where or reasons why cost increases are occurring.

What Types of Management Information Systems Have Other States Implemented To Help Identify and Control Workers' Compensation Costs?

In general, we found that Kansas does not have the information needed to make good management decisions for the workers' compensation program. Analysis of such information can help control costs in a number of ways.

The four states we contacted generally collected data on provider fees, hospital charges and costs, rehabilitation costs, compensation expenses, defendant legal expenses, type of injury, cause or source of injury, employer, employer's industry type, claimant legal expenses, and insurance carrier. The systems generally were able to produce a variety of standard and custom reports. We also found that a national organization is presently running pilot projects with the ultimate goal of standardizing workers' compensation data collection among all states. Pilot projects are under way in four states.

To answer this question we called workers' compensation officials in Florida, Oregon, Washington, and Wisconsin, four states that appeared to have developed good workers' compensation information systems. We also contacted several computer consultants who had been involved in developing large information systems. In general, the individuals we contacted said the field of workers' compensation suffers from a lack of good-quality, comparable information. We asked officials in the four states we contacted a series of questions about their systems, the data they collected, and the systems' data reporting capabilities. We also reviewed information provided by the International Association of Industrial Accident Boards and Commissions and by computer consultants.

Kansas Does Not Have the Information Needed to Answer Crucial Program Questions

Kansas needs a good workers' compensation information system because program managers have to collect, retrieve, and analyze information to make prudent and well-informed management decisions. Analyses showing which employers or industries have the most injuries, which injuries are the costliest, which providers charge the most and least for similar services, and so forth are critical for designing and implementing effective cost-containment strategies. The National Conference of State Legislatures' blue-ribbon panel on workers' compensation, in its Recommendations to the NCSL Task Force on Workers' Compensation, concluded that:

It is impossible for any workers' compensation agency to meet its responsibilities without having access to relevant, accurate, consistent and timely data. Data also are necessary in order for the parties to the system to understand how the system is performing and what it costs.

In the recently completed audit, Examining Increases in Expenditures from the State Workers' Compensation Fund, we found problems with the Division of Workers' Compensation's computer system in three main areas:

- The Division did not collect complete claim information, such as data on expenditures for compensation, medical care, attorneys, and other costs
- The data the Division did collect sometimes were inaccurate
- The computer system was not programmed to analyze the accident information the Division collected

As a result of these problems, Workers' Compensation officials did not have access to the information and analyses required to make good management decisions. The Division's system does what it was designed for—it tracks individual cases—but it is generally unable to provide summary reports or analyze workers' compensation claim information.

Several States Have Computerized Information Systems That Are Able to Provide Legislators and Agency Officials With a Variety of Program Information

We reviewed available national literature about workers' compensation management information systems and found that a good management information system needs certain types of data. The literature indicated that accident and expenditure information, attorney involvement, cost data, and the like are basic requirements.

Workers' compensation officials in the states we contacted generally had large, flexible information systems that could produce a variety of standard and custom reports. The table on the following page shows information collected by the workers' compensation agencies in the states we contacted, as well as how officials use their information.

As the table shows, Kansas' Division of Workers' Compensation does not collect any expenditure or cost information. However, K.S.A. 74-716 states as follows:

The director [of workers' compensation] may require from each worker's compensation insurance carrier, self-insurer or group-funded workers' compensation pool, at such time and in accordance with regulations of the director, reports of all payments of compensation made by such workers' compensation insurance carrier, self-insurer or group-funded workers' compensation pool during any period.

**Claims Data Collected by Selected States'
Workers' Compensation Agencies**

	<u>Kansas</u>	<u>Florida</u>	<u>Oregon</u>	<u>Washington</u>	<u>Wisconsin</u>
Accident Information					
Employer	X	X	X	X	X
Employer's Industry	X	X	X	X	X
Employee	X	X	X	X	X
Location of Accident	X	X	X		X
Insurance Carrier	X	X	X		X
Type of Injury	X ^(a)	X	X	X	X
Cause or Source of Injury	X ^(a)	X	X	X	X
Expenditure Information					
Provider Fees (amount charged by doctors, hospitals, and rehabilitation providers)		X	X	X	
Cost Data (actual cost to provide care)		X	X	X	
Compensation Expenses		X	X	X	X
Defendant Legal Expenses		X	X		X
Claimant Legal Expenses		X	X		X
Attorney Involvement					
Attorney for Employer	X		X		X
Attorney for Employee	X		X		X
Attorney for Insurance Company	X		X		X

^(a) Our previous audit showed that this information was often too generic to be useful, and was sometimes inaccurate.

In other states, differences in laws may make data more readily available. Oregon, for example, has a new law requiring all insurers with 100 or more workers' compensation disability claims per year to report (via a computer tape submitted quarterly) information on medical provider payments. Washington does not use private insurance companies for workers' compensation, but rather acts as the sole workers' compensation insurer for most of the state (some employers are permitted to self-insure). As a result, workers' compensation officials have ready access to claims and expenditure data because they generally receive the claims and make the expenditures.

Workers' compensation information, if it is to be useful, must be analyzed to answer certain kinds of questions. Our review showed that workers' compensation information systems in other states generally could provide the following kinds of reports:

- **Cost Monitoring** (reports on the costs of providing services, and similar expenditure information)
- **Policy Development** (reports information that helps policymakers decide such issues as changes in benefits or fee schedules)
- **Provider Performance Monitoring** (information that shows, for example, whether a firm hired to do hospital bill audits is actually saving the state money)
- **Managed Care Program Analysis** (determining whether the use of managed-care organizations saves money, and which ones are most cost-effective)

Data collected and entered in the workers' compensation computer system in Washington State are used in research, forecasting the impact of proposed policy changes, and developing policy on safety programs. Washington's workers' compensation agency, the Department of Labor and Industries, also produces individual caseload reports for the approximately 200 state case managers, showing costs and trends for each manager's caseload.

The Oregon Department of Insurance and Finance prepares a number of annual reports that go to the legislative labor committees, other committees, individual legislators, and department managers. In all, that agency generates 20-25 standard reports covering a variety of workers' compensation topics, as well as custom reports in response to requests from insurance companies, state agencies, private citizens, and other interested parties.

Florida's Division of Workers' Compensation has the capability to produce reports for a variety of purposes, but officials want to expand it still further. Florida has contracted with consultants to do a study of the data elements and reports needed to produce an annual report on trends, major expenses, and other management information. The end result will be a three-year plan to upgrade the management information system. Officials said that in addition to a good computerized system, it is necessary to have a unit staffed with people who can analyze the resulting data, taking into account its biases and limitations, and draw logical and useful conclusions. The desired result, they said, is prompt, valid information to aid policymakers.

The chart on the following page shows some of the questions that could be answered if the proper information were available.

The Kansas Self-Insurance Fund Has Developed the Kind of Management Information System That Could Be Useful to the Division and the Legislature

The Kansas Self-Insurance Fund pays workers' compensation costs for State employees who are injured on the job. Fund officials maintain a management information

If the Right Information Were Available, Policymakers Could Get Answers to Some Important Questions

One problem faced by legislators and agency administrators as they try to get a handle on rising workers' compensation costs is the lack of basic program information. This chart shows a sampling of some crucial questions and the principal information the State would need to collect and analyze to answer such questions. With enough information and the means to analyze it, officials could get answers to just about any program question.

—Types of data needed to answer the question—

Questions that policymakers could answer if enough data were available	Employer	Employer's Industry	Insurance Carrier	Type of Injury	Cause of Injury	Provider fees	Legal Expenses	Compensation Claimant
How many active workers' compensation claims are there?								✓
How does the number of claims filed this year compare with previous years?								✓
How much does an average claim cost?					✓	✓	✓	
Which health care providers are the most expensive?					✓			
How much are the parties paying in legal costs?	✓	✓				✓		✓
Which injuries are the most costly?			✓		✓	✓	✓	
Which insurers have the most (or fewest) losses?			✓		✓	✓	✓	
Which occupations (or industries) are the most dangerous?		✓		✓	✓			✓
What are the biggest causes of injuries?				✓	✓			
Which employers have the best (or worst) safety records?	✓	✓		✓	✓			

system that is used to track the approximately 3,000 workers' compensation claims open at any one time.

We reviewed that information system to see whether it might be a useful model for the Division of Workers' Compensation as the Division sets about the task of improving its data processing function. We found that the Fund's system was developed by Fund officials on a personal computer, using standard, off-the-shelf database software. There would seem to be no reason why the Division of Workers' Compensation, backed

by the computer capabilities of the Department of Human Resources, could not develop a mainframe-based system that performs similar tasks in a similar way.

The Kansas Self-Insurance Fund's system produces a number of reports. Some of the ones most potentially useful to the Division are shown in the following table:

Major Reports Produced by the Kansas Self-Insurance Fund Computer System	
<u>Report</u>	<u>Purpose</u>
<ul style="list-style-type: none"> • injury reports for all agencies • costs by cause or body part 	analysis of most costly injuries
<ul style="list-style-type: none"> • count of claims by agency 	analysis of safety record of each agency
<ul style="list-style-type: none"> • payment log by claimant • listing of active claims • monthly activity summary 	tracking of individual cases
<ul style="list-style-type: none"> • injuries by employee classification • claimants by age and disability 	analysis of most risky jobs
<ul style="list-style-type: none"> • medical fee schedule data 	development of fee schedules

Again, if these types of reports were available for all workers' compensation claims in the State, they would go a long way toward answering the questions of legislators and other policymakers.

Kansas May Wish To Consider Participating in The Electronic Data Interchange Project

The International Association of Industrial Accident Boards and Commissions' Electronic Data Interchange project is designed to standardize collection of workers' compensation data in all 50 states. According to the Association, standardized data collection can be used to do the following:

- identify the causes and extent of workplace injuries
- develop management information for system administrators
- determine and measure those factors that influence workers' compensation costs
- measure the impact of legislative and regulatory reforms
- draw comparisons across jurisdictional lines

One Kansas Employer Described His Dissatisfaction with the Current System

One Kansas employer in our survey provided us with a detailed letter covering his workers' compensation experience. Below are excerpts from the letter:

"We are very concerned that employers, who pay for the system, have been left to fend for themselves in the face of assaults on the system—one that they are forced to support but are essentially left without means to defend.

"These attacks on the system are led by:

1) Dishonest employees. Those who are attempting to defraud the system for personal gain, or who, lacking private health insurance, want to pass off their non-job related medical costs onto their employer. Currently, it is not even a crime to defraud an insurance company in a workers' compensation claim.

2) Opportunistic attorneys. They represent claimants in a supposedly "no-fault" system, and they typically get up to 50 percent of a workers' compensation settlement - many times just for filing papers typed up by their secretary. If this is a "no-fault" system, why are ANY workers' compensation cases litigated at all? According to our insurers, up to forty percent of ALL claims are litigated now.

3) Physicians. Those who pass off the bad debts from private health patients in their practice onto the workers' compensation system by inflating costs for workers' compensation procedures far above the costs of those same procedures for private patients.

"Employers should receive help from their insurance carriers, but most do little or nothing to stop the rampant fraud and abuse. The carriers seldom refuse to pay dubious claims, or to even investigate suspicious claims. They (insurance carriers) get to levy premiums on non-work

compensation paid to employees, such as vacations, holidays, and bonuses, where there is no exposure to risk of claims.

"Because of the effect that workers' compensation has had on increasing costs, we are less profitable. This is making financing more and more difficult to come by.

"We are attempting to stem the crushing financial burden of workers' compensation by:

1) Reducing employees. Where we were paying under four dollars per hundred dollars of payroll paid for workers' compensation coverage just five years ago, we are now paying almost three times that. Since we cannot get our insurers to help control the cost of it, and we are so much in the minority compared to the number of those who benefit from the system, we can only reduce our exposure to its cost by eliminating as many as we can of those on whose presence we are charged for having workers' compensation coverage.

2) Examining self-insurance pooling. Opting out of the conventional insurance system altogether for workers' compensation first, then maybe other types of coverage later. This promises savings to us of over fifty percent versus the assurance of continuing escalation of cost far beyond our ability to recoup profits through corresponding price increases.

3) Examining the option of moving our operation out of Kansas. Costs across the state line are no longer well above what Kansas used to be. Further, a tax rise is expected in Kansas; none is anticipated for Missouri. And, Missouri allows workers' compensation settlements to be reduced by the amount of negligence which the employee is found to have contributed to an accident. The atmosphere for self-insured pools is more congenial as well.

Florida is one of the states currently participating in the Electronic Data Interchange project. Florida officials stated that one of the most compelling arguments for participating in the project is that standardized reporting eventually will allow state-to-state comparisons of expenditures and other factors that cannot now be compared. Florida officials said the project should be a good resource for the Division as Kansas improves its workers' compensation management information system. Florida officials added that failure to participate in the project could be short-sighted.

In addition, the National Conference of State Legislatures' blue-ribbon panel on workers' compensation concluded that:

Each state workers' compensation agency should work with organizations such as [the International Association of Industrial Accident Boards and Commissions] to classify and store its data in a manner consistent with the methods recognized by those entities. This will help reduce the burden on employers and carriers that must provide the data, by making reporting requirements similar if not identical across state lines. This approach also will permit more accurate comparisons among states. States should begin work immediately on these programs, but should confer with the parties to their system as well as other states and professional organizations to ensure that the programs are designed and implemented properly.

Division officials told us they are pilot testing an electronic data transfer system with a Kansas insurance company, but have had problems getting the necessary resources to finish the project. Division officials also contend that the Association is contemplating a system much more sophisticated than anything Kansas could do with the staff and dollars available, and that it would be expensive to collect and manage the data that would be generated under the proposed procedures.

The Division has taken initial steps to improve its data collection procedures and hopes to develop a method to analyze some of the information it does maintain. In November 1992, the Division created a data collection and computer records section, consisting of four staff who were charged with making changes in the Division's computer recordkeeping procedures. These efforts are still in the preliminary stages. Officials said they have drafted a bill they hope to have considered by the Legislature during the current session that would grant the Division authority to contract for an analysis of computer system requirements.

Conclusion

It is clear the Legislature and the Division of Workers' Compensation do not have the information they need to make informed policy decisions. Not only can program administrators not tell how many claims are filed, or for what kinds of injuries, but they also cannot determine such basic things as how much is being spent on workers' compensation claims, including what health-care providers or attorneys are charging injured workers for the services they provide.

Without good management information, neither the Legislature nor the Division will be able to determine what effect any changes that are made within the system will have on the cost of workers' compensation insurance. Without good management information and analyses, the Legislature and the Division must essentially "shoot in the dark" in trying to decide what changes are most likely to address the factors driving up workers' compensation costs.

Kansas needs information about workers' compensation--especially about actual expenditures by claim--and it needs the computer and staff capability to analyze and report on that information. Although the law apparently gives the Workers' Compensation Director the authority to require insurers and others to report expenditure information, the Director has not done so. Even if that happened, the Division has indicated it does not now have the staff or computer resources to bring about the necessary changes. The issue of additional staff and funding will need to be addressed.

Finally, in developing a management information system in Kansas, the Division of Workers' Compensation should consider the standard information formats currently being developed by the International Association of Industrial Accident Boards and Commissions. If Kansas spends the time and money to develop a system, the Legislature and Division staff should ensure that the information obtained and reported can be compared with similar information from other states. Developing a flexible system that conforms to the nationwide standards may be more expensive than putting together a system that only meets current needs, but would seem to make sense.

Recommendations

To provide the Legislature with relevant and accurate information on the operation of Kansas' workers' compensation system, the Division of Workers' Compensation should do the following:

1. Develop a plan for creating an information system that will meet the needs of the Division and the Legislature, as well as provide comparative information with other states' data. This plan should be prepared by computer consultants and Division staff knowledgeable about the workers' compensation system, in consultation with representatives of the Legislature, the workers' compensation insurance industry, the Insurance Department, and others with a stake in having good information about the workers' compensation program. The Division also should involve representatives of the Department of Administration and the Division of Information Systems and Communications to ensure that the development, acquisition, and installation of such a system is adequately planned.
2. As part of its plan, the Division should provide a cost estimate and timetable for completing the system to the Legislature, both as part of the appropriations process and as part of the hearings process on bills being considered by the 1993 Legislature. These cost and time estimates should include consideration of the need for any computer hardware or software, additional staff or consultants, data processing needs, and the like.

APPENDIX A

State Limits on Temporary Partial Disability Benefits for All 50 States

The table on the following page shows, for each of the 50 states, the two components limiting the total weekly compensation an injured employee could receive if that employee suffered an on-the-job injury which resulted in the loss of employment. These components are the percent of the employee's average gross weekly wage, and the authorized maximum weekly benefits. The table also shows whether each state has adopted any regulations to limit the compensation paid to either a specific period of time or a fixed maximum amount. All data represents the conditions in effect in that state as of January 1, 1992.

State Limits on Temporary Partial Disability Benefits (a)

State	Authorized Percent of Employee's Average Gross Weekly Wage	State	Benefit Maximum Expressed as a Percent of the State Average Weekly Wage	State	Maximum Weeks Paid
Utah	100.00	Iowa	200.00	Arizona	no limit
Alaska	80.00	New Hampshin	150.00	Arkansas	no limit
Connecticut	80.00	Maine	136.00	California	no limit
Michigan	80.00	Alaska	122.00	Colorado	no limit
New Jersey	70.00	North Carolina	110.00	Hawaii	no limit
Oklahoma	70.00	Missouri	105.00	Idaho	no limit
Texas	70.00	Alabama	100.00	Iowa	no limit
West Virginia	70.00	Arkansas	100.00	Maryland	no limit
Idaho	67.00	Connecticut	100.00	Michigan	no limit
Alabama	66.67	Florida	100.00	New Mexico	no limit
Arizona	66.67	Hawaii	100.00	New York	no limit
Arkansas	66.67	Maryland	100.00	North Carolina	no limit
California	66.67	Massachusetts	100.00	South Dakota	no limit
Colorado	66.67	Minnesota	100.00	Washington	no limit
Delaware	66.67	North Dakota	100.00	West Virginia	no limit
Georgia	66.67	Oregon	100.00	Wyoming	no limit
Hawaii	66.67	Rhode Island	100.00	Wisconsin	1,000
Indiana	66.67	South Carolina	100.00	Connecticut	780
Iowa	66.67	South Dakota	100.00	Louisiana	520
Kansas	66.67	Texas	100.00	Maine	520
Louisiana	66.67	Utah	100.00	Virginia	500
Maine	66.67	Virginia	100.00	Minnesota	450
Maryland	66.67	Washington	100.00	Mississippi	450
Minnesota	66.67	Wisconsin	100.00	Kansas	415 weeks or \$100,000
Mississippi	66.67	Colorado	91.00	New Jersey	400
Missouri	66.67	Michigan	90.00	Tennessee	400
Nebraska	66.67	Kansas	75.00	Georgia	350
Nevada	66.67	Louisiana	75.00	New Hampshire	350
New Hampshire	66.67	New Jersey	75.00	South Carolina	320
New Mexico	66.67	Oklahoma	70.00	Rhode Island	312
New York	66.67	Idaho	67.00	Utah	312
North Carolina	66.67	California	66.67	Alabama	300
North Dakota	66.67	Delaware	66.67	Delaware	300
Oregon	66.67	Indiana	66.67	Indiana	300
Rhode Island	66.67	New Mexico	66.67	Nebraska	300
South Carolina	66.67	West Virginia	66.67	Oklahoma	300
Tennessee	66.67	Wyoming	66.67	Alaska	260
Virginia	66.67	Arizona	n/a	Florida	260
Wisconsin	66.67	Georgia	n/a	Massachusetts	260
Wyoming	66.67	Illinois	n/a	North Dakota	260
Florida	64.00	Kentucky	n/a	Nevada	104
Massachusetts	60.00	Mississippi	n/a	Oregon	104
South Dakota	50.00	Montana	n/a	Texas	104
Illinois	n/a	Nebraska	n/a	Missouri	100
Kentucky	n/a	Nevada	n/a	Illinois	n/a
Montana	n/a	New York	n/a	Kentucky	n/a
Ohio	n/a	Ohio	n/a	Montana	n/a
Pennsylvania	n/a	Pennsylvania	n/a	Ohio	n/a
Washington	n/a	Tennessee	n/a	Pennsylvania	n/a
Vermont (b)		Vermont (b)		Vermont (b)	

(a) All data was collected via telephone interviews of staff of each state's Workers' Compensation agency.

(b) The state of Vermont did not provide the necessary information.

APPENDIX B

State Limits on Temporary Total Disability Benefits for All 50 States

The table on the following page shows, for each of the 50 states, the two components limiting the total weekly compensation an injured employee could receive if that employee suffered an on-the-job injury which resulted in the loss of employment. These components are the percent of the employee's average gross weekly wage, and the authorized maximum weekly benefits. The table also shows whether each state has adopted any regulations to limit the compensation paid to either a specific period of time or a fixed maximum amount. All data represents the conditions in effect in that state as of January 1, 1992.

State Limits on Temporary Total Disability Benefits (a)

State	Authorized Percent of Employee's Average Gross Weekly Wage	State	Benefit Maximum Expressed as a Percent of the State Average Weekly Wage	State	Maximum Weeks Paid
Alaska	80.00	Iowa	200.00	Alabama	no limit
Connecticut	80.00	Connecticut	150.00	Alaska	no limit
New Jersey	70.00	New Hampshire	150.00	Arizona	no limit
Oklahoma	70.00	Maine	136.00	Arkansas	no limit
Texas	70.00	Illinois	133.33	California	no limit
West Virginia	70.00	Kentucky	133.33	Colorado	no limit
Idaho	67.00	Alaska	122.00	Connecticut	no limit
Alabama	66.67	North Carolina	110.00	Delaware	no limit
Arizona	66.67	Missouri	105.00	Georgia	no limit
Arkansas	66.67	Alabama	100.00	Hawaii	no limit
California	66.67	Arkansas	100.00	Illinois	no limit
Colorado	66.67	Florida	100.00	Iowa	no limit
Delaware	66.67	Hawaii	100.00	Kentucky	no limit
Florida	66.67	Maryland	100.00	Louisiana	no limit
Georgia	66.67	Massachusetts	100.00	Maryland	no limit
Hawaii	66.67	Minnesota	100.00	Minnesota	no limit
Illinois	66.67	North Dakota	100.00	Montana	no limit
Indiana	66.67	Oregon	100.00	Nebraska	no limit
Iowa	66.67	Pennsylvania	100.00	Nevada	no limit
Kansas	66.67	Rhode Island	100.00	New Hampshire	no limit
Kentucky	66.67	South Carolina	100.00	New Mexico	no limit
Louisiana	66.67	Texas	100.00	New York	no limit
Maine	66.67	Utah	100.00	North Carolina	no limit
Maryland	66.67	Virginia	100.00	North Dakota	no limit
Minnesota	66.67	Washington	100.00	Oregon	no limit
Mississippi	66.67	West Virginia	100.00	Pennsylvania	no limit
Missouri	66.67	Wisconsin	100.00	Rhode Island	no limit
Montana	66.67	Colorado	91.00	South Dakota	no limit
Nebraska	66.67	Kansas	75.00	Washington	no limit
Nevada	66.67	Louisiana	75.00	Wyoming	no limit
New Hampshire	66.67	New Jersey	75.00	Wisconsin	1,000
New Mexico	66.67	Oklahoma	70.00	Maine	520
New York	66.67	Idaho	67.00	Indiana	500
North Carolina	66.67	California	66.67	South Carolina	500
North Dakota	66.67	Delaware	66.67	Virginia	500
Ohio	66.67	Indiana	66.67	Mississippi	450
Oregon	66.67	Montana	66.67	Missouri	400
Pennsylvania	66.67	New Mexico	66.67	New Jersey	400
Rhode Island	66.67	Wyoming	66.67	Tennessee	400
South Carolina	66.67	Arizona	n/a	Utah	312
South Dakota	66.67	Georgia	n/a	Oklahoma	300
Tennessee	66.67	Michigan	n/a	Florida	260
Utah	66.67	Mississippi	n/a	West Virginia	208
Virginia	66.67	Nebraska	n/a	Ohio	200
Wisconsin	66.67	Nevada	n/a	Massachusetts	156
Wyoming	66.67	New York	n/a	Texas	104
Massachusetts	60.00	Ohio	n/a	Idaho	52
Washington	60.00	South Dakota	n/a	Kansas	\$100,000
Michigan	n/a	Tennessee	n/a	Michigan	n/a
Vermont (b)		Vermont (b)		Vermont (b)	

(a) All data was collected via telephone interviews of staff of each state's Workers' Compensation agency.

(b) The state of Vermont did not provide the necessary information.

APPENDIX C

State Limits on Permanent Partial Disability Benefits for All 50 States

The table on the following page shows, for each of the 50 states, the two components limiting the total weekly compensation an injured employee could receive if that employee suffered an on-the-job injury which resulted in the loss of employment. These components are the percent of the employee's average gross weekly wage, and the authorized maximum weekly benefits. The table also shows whether each state has adopted any regulations to limit the compensation paid to either a specific period of time or a fixed maximum amount. All data represents the conditions in effect in that state as of January 1, 1992.

State Limits on Permanent Partial Disability Benefits (a)

State	Authorized Percent of Employee's Average Gross Weekly Wage	State	Benefit Maximum Expressed as a Percent of the State Average Weekly Wage	State	Maximum Weeks or Dollars Paid
Connecticut	80.00	Iowa	184.00	Arizona	no limit
New Jersey	70.00	New Hampshire	150.00	California	no limit
West Virginia	70.00	North Carolina	110.00	Nevada	no limit
Alabama	66.67	Connecticut	100.00	New York	no limit
Arkansas	66.67	Florida	100.00	North Carolina	no limit
Delaware	66.67	Hawaii	100.00	Ohio	no limit
Georgia	66.67	Kentucky	100.00	Oklahoma	no limit
Hawaii	66.67	Maryland	100.00	Wisconsin	1,000
Iowa	66.67	Oregon	100.00	Connecticut	780
Kansas	66.67	Pennsylvania	100.00	New Jersey	600
Kentucky	66.67	Rhode Island	100.00	Idaho	500
Louisiana	66.67	South Carolina	100.00	Illinois	500
Maryland	66.67	South Dakota	100.00	Iowa	500
Mississippi	66.67	Virginia	100.00	Maryland	500
Missouri	66.67	Arkansas	75.00	New Mexico	500
Montana	66.67	Kansas	75.00	North Dakota	500
Nebraska	66.67	Louisiana	75.00	Pennsylvania	500
New Hampshire	66.67	New Jersey	75.00	South Carolina	500
New Mexico	66.67	Illinois	72.00	Virginia	500
New York	66.67	Texas	70.00	Arkansas	450
North Carolina	66.67	Delaware	66.67	Mississippi	450
Pennsylvania	66.67	New Mexico	66.67	Kentucky	425
Rhode Island	66.67	Utah	66.67	Kansas	415 weeks or \$100,000
South Carolina	66.67	West Virginia	66.67	Texas	401
South Dakota	66.67	Wyoming	66.67	Missouri	400
Tennessee	66.67	Idaho	55.00	Tennessee	400
Utah	66.67	Missouri	55.00	Florida	364
Virginia	66.67	Colorado	50.00	Montana	350
Wyoming	66.67	Montana	50.00	New Hampshire	350
Illinois	60.00	Oklahoma	50.00	West Virginia	339
Arizona	55.00	North Dakota	33.33	Hawaii	312
Colorado	50.00	Alabama	n/a	Rhode Island	312
Oklahoma	50.00	Alaska	n/a	South Dakota	312
Alaska	n/a	Arizona	n/a	Utah	312
California	n/a	California	n/a	Alabama	300
Florida	n/a	Georgia	n/a	Delaware	300
Idaho	n/a	Indiana	n/a	Georgia	300
Indiana	n/a	Maine	n/a	Nebraska	300
Maine	n/a	Massachusetts	n/a	Wyoming	260
Massachusetts	n/a	Michigan	n/a	Louisiana	200
Michigan	n/a	Minnesota	n/a	Alaska	\$135,000
Minnesota	n/a	Mississippi	n/a	Colorado	\$120,000
North Dakota	n/a	Nebraska	n/a	Indiana	\$106,000
Nevada	n/a	Nevada	n/a	Maine	\$104,957
Ohio	n/a	New York	n/a	Washington	\$90,000
Oregon	n/a	Ohio	n/a	Oregon	\$60,503
Texas	n/a	Tennessee	n/a	Massachusetts	n/a
Washington	n/a	Washington	n/a	Michigan	n/a
Wisconsin	n/a	Wisconsin	n/a	Minnesota	n/a
Vermont (b)		Vermont (b)		Vermont (b)	

(a) All data was collected via telephone interviews of staff of each state's Workers' Compensation agency.

(b) The state of Vermont did not provide the necessary information.

APPENDIX D

State Limits on Permanent Total Disability Benefits for All 50 States

The table on the following page shows, for each of the 50 states, the two components limiting the total weekly compensation an injured employee could receive if that employee suffered an on-the-job injury which resulted in the loss of employment. These components are the percent of the employee's average gross weekly wage, and the authorized maximum weekly benefits. The table also shows whether each state has adopted any regulations to limit the compensation paid to either a specific period of time or a fixed maximum amount. All data represents the conditions in effect in that state as of January 1, 1992.

State Limits on Permanent Total Disability Benefits (a)

State	Authorized Percent of Employee's Average Gross Weekly Wage	State	Benefit Maximum Expressed as a Percent of the State Average Weekly Wage	State	Maximum Weeks Paid
Alaska	80.00	Iowa	200.00	Alabama	no limit
Connecticut	80.00	Connecticut	150.00	Alaska	no limit
Michigan	80.00	New Hampshire	150.00	Arizona	no limit
Texas	75.00	Maine	136.00	Arkansas	no limit
New Jersey	70.00	Illinois	133.33	California	no limit
Oklahoma	70.00	Kentucky	133.33	Colorado	no limit
West Virginia	70.00	Alaska	122.00	Connecticut	no limit
Alabama	66.67	North Carolina	110.00	Delaware	no limit
Arizona	66.67	Missouri	105.00	Florida	no limit
Arkansas	66.67	Alabama	100.00	Georgia	no limit
California	66.67	Arkansas	100.00	Hawaii	no limit
Colorado	66.67	Florida	100.00	Idaho	no limit
Delaware	66.67	Hawaii	100.00	Illinois	no limit
Florida	66.67	Maryland	100.00	Iowa	no limit
Georgia	66.67	Massachusetts	100.00	Kentucky	no limit
Hawaii	66.67	Minnesota	100.00	Louisiana	no limit
Illinois	66.67	North Dakota	100.00	Maryland	no limit
Indiana	66.67	Oregon	100.00	Massachusetts	no limit
Iowa	66.67	Rhode Island	100.00	Michigan	no limit
Kansas	66.67	South Carolina	100.00	Minnesota	no limit
Kentucky	66.67	Texas	100.00	Missouri	no limit
Louisiana	66.67	Virginia	100.00	Montana	no limit
Maine	66.67	Washington	100.00	Nebraska	no limit
Maryland	66.67	West Virginia	100.00	Nevada	no limit
Massachusetts	66.67	Wisconsin	100.00	New Hampshire	no limit
Minnesota	66.67	Colorado	91.00	New York	no limit
Mississippi	66.67	Michigan	90.00	North Carolina	no limit
Missouri	66.67	Utah	85.00	North Dakota	no limit
Montana	66.67	Kansas	75.00	Ohio	no limit
Nebraska	66.67	Louisiana	75.00	Oklahoma	no limit
Nevada	66.67	New Jersey	75.00	Oregon	no limit
New Hampshire	66.67	Oklahoma	75.00	Rhode Island	no limit
New Mexico	66.67	California	66.67	South Dakota	no limit
New York	66.67	Delaware	66.67	Texas	no limit
North Carolina	66.67	Indiana	66.67	Virginia	no limit
North Dakota	66.67	Montana	66.67	Washington	no limit
Oregon	66.67	New Mexico	66.67	West Virginia	no limit
Rhode Island	66.67	Wyoming	66.67	Wisconsin	1,000
South Carolina	66.67	Idaho	45.00	New Mexico	700
South Dakota	66.67	Arizona	n/a	Maine	520
Tennessee	66.67	Georgia	n/a	Indiana	500
Utah	66.67	Mississippi	n/a	South Carolina	500
Virginia	66.67	Nebraska	n/a	Mississippi	450
Wisconsin	66.67	Nevada	n/a	New Jersey	450
Wyoming	66.67	New York	n/a	Tennessee	400
Washington	60.00	Ohio	n/a	Utah	312
Idaho	n/a	Pennsylvania	n/a	Wyoming	260
Ohio	n/a	South Dakota	n/a	Kansas	\$125,000
Pennsylvania	n/a	Tennessee	n/a	Pennsylvania	n/a
Vermont (b)		Vermont (b)		Vermont (b)	

(a) All data was collected via telephone interviews of staff of each state's Workers' Compensation agency.

(b) The state of Vermont did not provide the necessary information.

APPENDIX E

Maximum Income Benefits for Scheduled Injuries for All 50 States

The table on the following page shows, for each of the 50 states, the maximum dollar amount an injured employee could receive if that employee suffered an on-the-job injury which resulted in the loss, or complete loss of use, of the specific body part listed. These amounts are the maximum amounts payable as of January 1, 1992. The source of this information is the 1992 Edition of Analysis of Workers' Compensation Laws prepared and published by the United States Chamber of Commerce.

Maximum Potential Income Benefits for Scheduled Injuries

State	Arm at Shoulder	Hand	Thumb	First Finger	Second Finger	Third Finger	Fourth Finger	Leg at Hip	Foot	Great Toe	Toes	One Eye	One Ear	Both Ears
Alabama	\$48,840	\$37,400	\$13,640	\$9,460	\$6,820	\$4,840	\$3,520	\$44,000	\$30,580	\$7,040	\$2,420	\$27,280	\$11,660	\$35,860
Alaska	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Arizona	59,400	49,500	14,850	8,910	6,930	4,950	3,960	49,500	39,600	6,930	2,475	29,700	19,800	59,400
Arkansas	38,105	28,669	11,431	6,714	5,806	3,810	2,903	33,387	23,770	5,806	1,996	19,052	7,621	28,669
California	58,975	43,540	7,595	3,360	3,360	2,520	2,520	64,575	33,740	4,235	840	21,105	6,335	43,540
Colorado	31,200	15,600	7,500	3,900	2,700	1,650	1,950	31,200	15,600	3,900	1,650	20,850	5,250	20,850
Connecticut	229,944	185,724	70,015	39,798	32,428	22,847	19,162	175,406	138,556	30,954	9,581	173,195	38,324	114,972
Delaware	78,098	68,726	23,429	15,620	12,496	9,372	6,248	78,098	49,982	12,496	4,686	62,478	23,429	54,668
Florida	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Georgia	50,625	36,000	13,500	9,000	7,875	6,750	5,625	50,625	30,375	6,750	4,500	33,750	16,875	33,750
Hawaii	136,344	106,628	32,775	20,102	13,110	10,925	6,555	125,856	89,585	16,606	6,992	69,920	22,725	87,400
Idaho	59,400	53,460	21,780	13,860	10,890	4,950	2,970	39,600	27,720	8,316	1,386	34,650	0	34,650
Illinois	151,772	122,710	45,209	25,834	22,604	16,146	12,917	129,168	100,105	22,604	7,750	96,876	32,292	129,168
Indiana	30,000	24,000	7,200	4,800	4,200	3,600	2,400	27,000	21,000	7,200	3,600	21,000	9,000	24,000
Iowa	168,500	128,060	40,440	23,590	20,220	16,850	13,480	148,280	101,100	26,960	10,110	94,360	33,700	117,950
Kansas	60,690	43,350	17,340	10,693	8,670	5,780	4,335	57,800	36,125	8,670	2,890	34,680	8,670	31,790
Kentucky	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Louisiana	59,000	44,250	14,750	8,850	5,900	5,900	5,900	51,625	36,875	5,900	2,950	29,500	N/A	29,500
Maine	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Maryland	142,500	118,631	15,800	3,300	2,888	2,475	2,063	142,500	118,650	3,300	825	118,631	19,750	118,631
Massachusetts	22,167	17,528	0	0	0	0	0	20,105	14,950	0	0	20,105	14,950	39,695
Michigan	118,629	94,815	28,665	16,758	14,553	9,702	7,056	94,815	71,442	14,553	4,851	71,442	N/A	N/A
Minnesota	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Mississippi	45,436	34,077	13,631	7,952	6,815	4,544	3,408	39,757	28,398	6,815	2,272	22,718	9,087	34,077
Missouri	49,548	37,374	12,814	9,611	7,475	7,475	4,698	44,209	33,103	8,542	2,990	29,899	9,397	35,879
Montana	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Nebraska	59,625	46,375	15,900	9,275	7,950	5,300	3,975	56,975	39,750	7,950	2,650	33,125	13,250	N/A
Nevada	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
New Hampshire	132,930	119,637	48,108	29,751	24,054	12,027	5,697	88,620	62,034	11,394	1,899	53,172	18,990	77,859
New Jersey	99,000	60,025	8,175	5,450	4,360	3,270	2,180	94,500	50,140	4,360	1,635	38,200	6,540	38,200
New Mexico	61,460	38,413	16,902	8,604	6,761	5,224	4,302	61,460	35,340	10,756	4,302	39,949	12,292	46,095
New York	89,950	70,350	21,700	13,300	8,750	7,350	4,320	82,950	59,150	10,850	4,550	46,200	17,500	43,400
North Carolina	102,240	85,200	31,950	19,170	17,040	10,650	8,520	85,200	61,344	14,910	4,260	51,120	29,820	63,900
North Dakota	35,000	28,400	9,100	5,600	4,200	2,800	2,240	26,208	16,800	3,360	1,344	16,800	5,600	22,400
Ohio	99,675	77,525	26,580	15,505	13,290	8,860	6,645	88,600	66,450	13,290	4,430	55,375	11,075	55,375
Oklahoma	46,250	37,000	11,100	6,475	5,550	3,700	2,775	46,250	37,000	5,550	1,850	37,000	18,500	55,500
Oregon	58,577	45,763	14,644	7,322	6,712	3,051	1,831	45,764	41,187	5,492	1,220	30,529	18,305	58,577
Pennsylvania	186,550	152,425	45,500	22,750	18,200	13,650	12,740	186,550	113,750	18,200	7,280	125,125	27,300	118,300
Rhode Island	28,080	21,960	6,750	4,140	2,700	2,250	1,800	28,080	18,450	3,420	900	14,400	5,400	18,000
South Carolina	83,560	70,267	24,688	15,193	13,294	9,496	7,596	74,065	53,172	13,294	3,798	53,175	30,386	62,670
South Dakota	61,600	46,200	15,400	10,780	9,240	6,160	4,620	49,280	38,500	9,240	3,080	46,200	15,400	46,200
Tennessee	58,800	44,100	17,640	10,290	8,820	5,880	4,410	58,800	36,750	8,820	2,940	29,400	22,050	44,100
Texas	60,000	45,000	18,000	13,500	9,000	6,300	4,500	60,000	37,500	9,000	3,000	30,000	N/A	45,000
Utah	47,124	42,336	16,884	10,584	8,568	4,284	2,016	31,500	22,176	6,552	1,008	30,240	4,198	25,200
Vermont	127,280	103,600	29,600	18,944	14,800	11,840	7,104	127,280	103,600	14,800	5,920	74,000	30,784	127,280
Virginia	83,600	62,700	25,080	14,630	12,540	8,360	6,270	73,150	52,250	12,540	4,180	41,800	20,900	41,800
Washington	54,000	48,600	19,440	12,150	9,720	4,860	2,430	54,000	37,800	11,340	4,140	21,600	7,200	43,200
West Virginia	63,043	52,536	21,014	10,507	7,355	5,254	3,744	63,043	36,775	10,507	4,203	34,674	23,641	57,790
Wisconsin	72,000	57,600	24,040	8,640	6,480	3,744	4,032	72,000	36,000	12,000	3,600	39,600	31,104	47,520
Wyoming	39,638	32,843	12,458	7,928	4,530	4,530	4,530	36,240	27,180	5,663	2,265	27,180	13,590	27,180

APPENDIX F

Premium Rate Adjustments for 1986 to January 1992

The table on the following two pages shows the premium rate adjustments for 45 of the 50 states for 1986 through January 1, 1992. The rate increases are those that were approved for 1986 through January 1992. The information in the table is sorted from low to high based on the 1986 to 1992 percent change in premium levels. The national average premium adjustments for each year are at the bottom of the second page. During some years, some states may have had more than one premium rate adjustment.

Premium levels in a state are dependent on both the premium rate adjustments shown on the following pages and fluctuations in payroll in the state. The adjustments listed on the following pages give an idea of what changes have occurred in premium levels in Kansas and across the country, and do not include premium changes that may have been caused by changes in payroll in a particular state.

The table shows Kansas premium rate adjustments have been relatively stable for 1986 to 1990, but increased substantially between 1990 and 1992. Many states experienced this same type of increase in the last two years, and a few states had rather significant reductions in their premium levels between 1990 and 1992.

Premium Rate Adjustments for 1986 to January 1992

						1986 to 1990				1986 to 1992
	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>	<u>1990</u>	<u>Percent Change</u>	<u>1991</u>	<u>1992</u>	<u>Percent Change</u>	
Hawaii	-12.4	-18.9	-3.2	-5.8	0.0	-35.2%	0.0	0.0	-35.2%	
Maryland	8.0	-8.8	3.9	6.2	-8.4	-8.0	-5.0	5.8	-7.5	
			-7.6							
Virginia	-2.4	0.0	5.7	0.0	2.9	6.2	0.0	0.0	6.2	
Delaware	5.5	0.0	2.4	0.0	0.0	8.0	0.0	0.0	8.0	
New Jersey	0.0	10.6	9.6	-13.6	4.0	8.9	4.8	0.0	14.1	
Alaska	0.0	14.3	25.1	0.0	-4.1	29.3	-6.2	-3.2	17.4	
			-5.7							
Minnesota	2.4	-2.1	10.7	2.6	2.7	16.9	-2.8	6.5	21.0	
Oregon	26.7	14.5	0.0	5.2	6.1	61.9	-12.2	-11.0	26.5	
District of Columbia	19.7	9.1	-6.3	3.8	2.7	30.4	-1.3	0.0	28.7	
Arizona	4.4	5.5	3.8	9.4	1.7	27.2	9.9	0.0	39.8	
Michigan	14.4	9.8	-8.2	-5.5	21.0	31.9	-3.2	11.5	42.3	
Vermont	5.8	4.5	7.0	14.9	7.6	46.3	0.0	0.0	46.3	
Idaho	10.5	8.3	12.5	-2.9	7.2	40.1	1.3	7.0	51.9	
Arkansas	17.4	0.0	9.0	0.0	3.5	32.4	15.0	0.0	52.3	
California	8.2	9.0	3.3	-1.0	4.9	42.6	5.8	1.2	52.7	
	5.3	6.0			1.0					
Pennsylvania	7.39	0.06	8.67	0.0	7.49	36.2	13.2	0.0	54.2	
					8.5					
New Hampshire	9.6	6.0	0.0	14.4	9.6	47.6	5.7	0.0	56.0	
			1.3							
Oklahoma	0.0	0.0	23.8	0.0	2.8	27.3	22.8	0.0	56.3	
South Carolina	8.4	10.2	9.9	0.0	0.9	33.1	2.0	0.0	63.8	
					0.5		20.6			
Kansas	9.0	9.7	5.5	0.0	5.6	33.2	24.0	0.0	65.2	
Wisconsin	1.6	5.1	7.4	1.2	1.7	54.3	1.5	2.0	72.6	
	6.6	16.7		8.3	-3.0		8.1			
Mississippi	11.2	0.0	14.7	0.0	13.0	55.7	12.0	0.0	74.3	
			8.0							
Montana	53.0	-12.4	13.3	9.9	-3.4	61.2	8.5	0.0	74.9	
Nebraska	6.7	-0.5	12.0	14.9	12.4	53.6	16.5	0.0	78.9	
Iowa	25.2	0.0	12.6	0.0	9.8	62.5	4.1	6.7	80.5	
			5.0							
Colorado	18.8	18.7	0.0	13.8	14.3	83.4	0.0	0.0	83.4	
Tennessee	9.0	14.7	2.3	4.0	12.5	61.3	14.6	0.0	84.9	
	4.2			1.8	1.6					
Illinois	18.6	2.9	15.0	3.0	10.0	59.0	8.5	9.1	88.2	
New York	-4.7	5.1	11.1	15.5	29.4	66.3	15.3	0.0	91.8	
Florida	11.8	3.0	12.9	26.2	29.0	58.7	0.0	21.2	92.4	
					-25.0					

						1986 to 1990				1986 to 1992
	1986	1987	1988	1989	1990	Percent Change	1991	1992	Percent Change	
North Carolina	7.5	5.8	15.9	0.0	9.0	43.7%	18.9	15.8	97.8%	
Utah	17.5	3.6	2.5	3.0	12.5	53.9	11.3	17.9	101.9	
			6.42							
South Dakota	16.1	7.2	16.5	12.8	15.6	89.1	8.0	0.0	104.2	
Missouri	19.4	12.0	5.6	7.2	14.0	72.6	4.8	0.0	105.3	
							13.5			
New Mexico	0.0	24.2	0.0	-1.5	0.0	34.2	22.8	0.0	109.5	
				9.7			27.1			
Kentucky	11.2	16.9	17.0	13.2	0.0	72.2	24.2	0.0	113.8	
Texas	0.0	17.9	25.0	18.7	22.0	113.4	0.5	0.0	114.5	
Georgia	15.3	10.0	20.0	2.7	9.4	96.5	9.2	0.0	114.6	
		14.9								
Indiana	6.5	12.3	27.4	0.0	23.3	87.9	4.9	13.4	123.5	
Connecticut	6.3	14.6	0.0	10.7	22.1	94.0	2.6	9.2	143.0	
					17.8		2.7	8.9		
Rhode Island	0.0	0.0	19.0	0.0	32.0	156.3	0.0	0.0	156.3	
			15.7		41.0					
Massachusetts	0.0	0.0	19.9	14.2	26.2	72.8	11.3	0.0	162.7	
							19.3			
							14.5			
Alabama	15.0	13.0	7.5	0.0	9.0	52.3	17.9	0.0	191.3	
							30.0			
							24.8			
Maine	0.0	16.0	25.0	22.5	4.0	231.2	-5.3	0.0	216.5	
			30.0	26.3	9.2		0.9			
Louisiana	31.7	20.0		20.0	13.5	195.5	10.0	0.0	290.1	
				37.3			20.0			
National(b)	8.9	9.6	8.9	6.1	12.1	54.6%	6.9	0.0	65.3%	

(a) The information listed for 1992 includes premium rate adjustments effective January 1, 1992. States may have had other adjustments during 1992 which are not shown on this table.

(b) The national premium rate adjustment for 1991 is for the first three quarters of 1991. No information is available for adjustments in 1992.

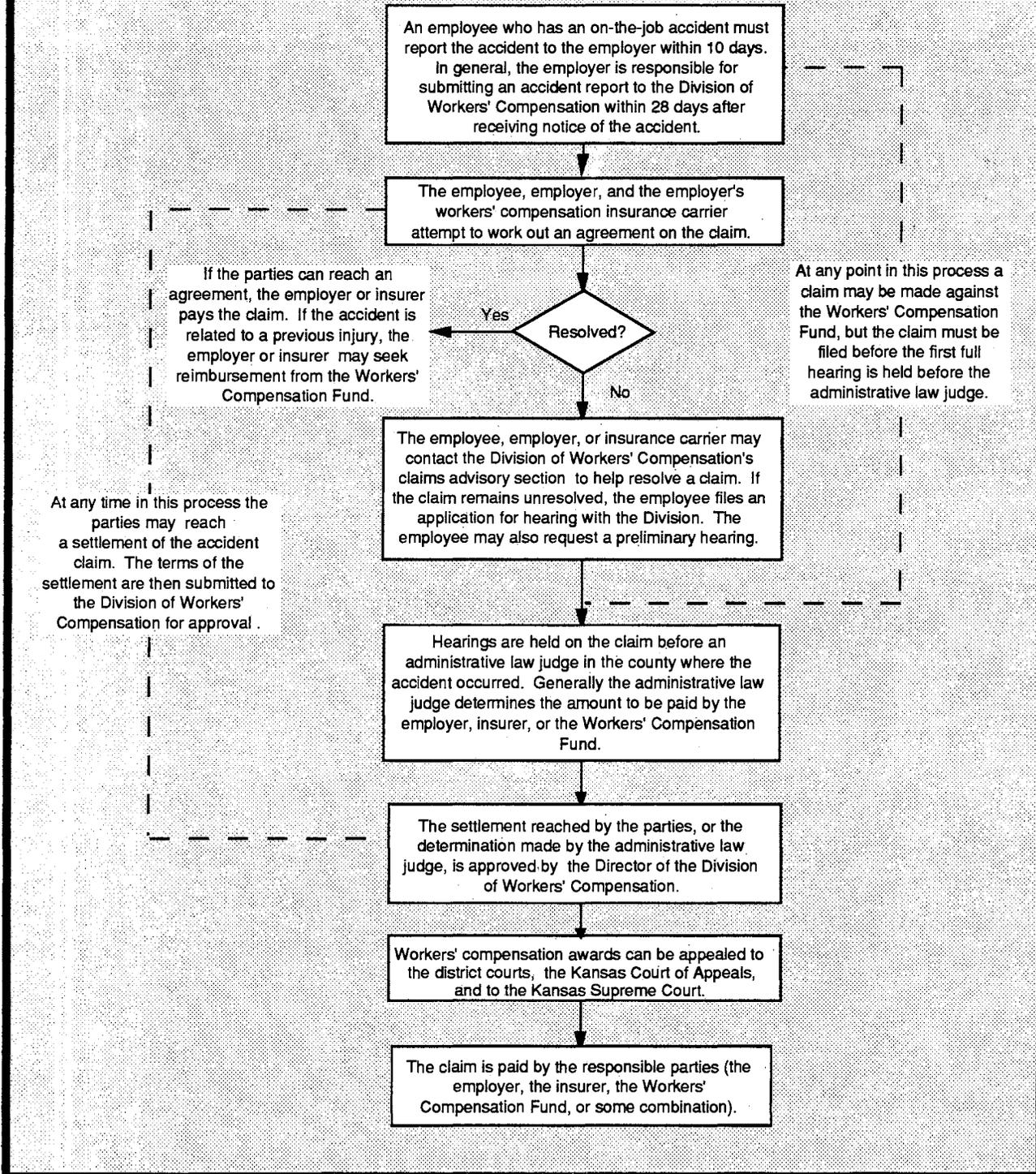


APPENDIX G

Process for Resolving Workers' Compensation Claims

The chart on the following page shows the process for resolving workers' compensation claims. Workers' compensation claims may include payments for medical care, vocational rehabilitation, or compensation for lost wages. The claims resolution process includes accident reporting; employees and employers resolving claims issues, and making claims settlements; holding preliminary and full hearings before administrative law judges; and finally, appeals of such rulings to the Director of Workers' Compensation and to the courts.

Process for Resolving Workers' Compensation Claims



Workers' compensation claims may include payments for medical care, vocational rehabilitation, or compensation for lost wages (for as long as 415 weeks for a permanent disability). Payments may be made on a one-time or monthly basis. If the parties are liable for future medical costs, the claim and the payments may go on indefinitely. Depending on the circumstances, claims payments may be made to the employee, employer, by the insurance company or a third party.

Appendix H

Agency Response

On February 8, we provided copies of the draft audit report to the Department of Human Resources. The agency's written response is included as this Appendix.



Kansas Department of Human Resources

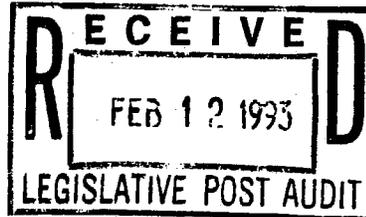
Joan Finney, Governor
Joe Dick, Secretary

Information
913-296-3441
Fax
913-296-0839
Director's Office
913-296-4000
Topeka Law Judges
913-296-7012

DIVISION OF WORKERS COMPENSATION
800 SW JACKSON ST STE 600
TOPEKA KS 66612-1227

Rehabilitation
913-296-2050
Claims Advisory
913-296-2996
Self Insurance
913-296-3606
Medical Utilization Review
913-296-0846

February 12, 1993



Barbara J. Hinton
Legislative Post Auditor
800 SW Jackson, Suite 1200
Topeka, KS 66612

Dear Ms. Hinton:

Thank you for the opportunity to see the text of the Post Audit report.

On page 35, the next to the last paragraph, please note the Kansas Division of Workers Compensation does support a criminal fraud statute (see our proposal HB 2432, page 1, new section 1). We believe that both criminal and civil enforcement are necessary. However, civil enforcement would be the most cost effective way to recoup dollars on fraud.

Sincerely,


George Gomez
Workers Compensation Director

mr

