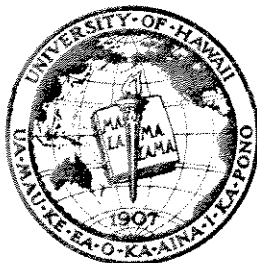




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STATE COMPENSATION
INSURANCE FUNDS



Report No. 2 - 1948

Legislative Reference Bureau
University of Hawaii

STATE COMPENSATION INSURANCE FUNDS

--Report No. 2. 1948--

(Request No. 255)

Norman Meller, Director
Legislative Reference Bureau
University of Hawaii

TABLE OF CONTENTS

	<u>Page</u>
Introduction	1
1. Workmen's Compensation Liability.	2
2. Comparative Costs of Workmen's Compensation . Insurance.	7
3. Structure and Administration of State Funds	13
a. Top Management.	13
b. Functions and Activities.	16
c. Field Offices	17
d. Relation to Other State Agencies.	19
Attorney general	19
Civil service.	19
Budgetary control and allied financial surveillance.	20
e. Distinctive Structure of Exclusive State Funds.	21
4. Financial Structure and Supervision	23
a. Original Capital.	23
b. Administrative Expenses	24
c. Shifting of Fund's Burden from Policyholders.	27
5. Administration of Workmen's Compensation in the Territory of Hawaii.	29
Conclusion	33
 <u>Appendices</u>	
A. Insurance Requirements.	37
B. Provisions Relating to Administration Expenses of Workmen's Compensation Department	39
C. Workmen's Compensation Transacted in the Territory of Hawaii.	41

STATE COMPENSATION INSURANCE FUNDS

Introduction

This study attempts to collate data pertinent to the organization and administration of a territorial agency writing all workmen's compensation insurance in the Territory. Only incidentally is it concerned with the arguments for and against public or private insurance,¹ or the relative merits of competitive state funds as contrasted with exclusive state funds, as these issues have been decided in favor of an exclusive workmen's compensation insurance fund in the request received by the Bureau.

To permit comparative use of the data gathered, the various features of the workmen's compensation laws and the provisions made for insurance against liability are summarized. Similarly, a consideration of the functioning of the present Hawaii workmen's compensation law is material. With all this as background, the structure and procedures of state workmen's compensation insurance funds are brought into proper focus.

¹"The respective advantages and disadvantages of these several forms of insurance...are debated with much passion by advocates whose zeal in the public good is sharpened by pecuniary interest. Spurious arguments drawn from irrelevant social theories are made to do yeomen duty in the cause of propoganda and the pertinent facts are obscured by the dust of controversy." Downey, E. H., Workmen's Compensation, New York, 1924, p. 98. Dodd adds, "The statements just quoted are as true in 1936 as in 1924, and the mass of literature has probably doubled." Dodd, Walter F., Administration of Workmen's Compensation. The Commonwealth Fund. New York, 1936, p. 532.

For a statement of the private insurance carrier's case see: Lang, Frank, Workmen's Compensation Insurance, Chicago, 1947. For a treatment of the subject favorable to the case of state funds see: Andrews, John B., Progress of State Insurance Funds Under Workmen's Compensation, Bulletin No. 30, Division of Labor Standards, U. S. Department of Labor, Washington, D. C., 1939.

1. Workmen's Compensation Liability²

Workmen's compensation legislation has been enacted by all of the states, with the exception of Mississippi, as well as by Alaska, Hawaii and Puerto Rico. These acts differ widely in designating the employees who are covered, the benefits to be received, and the machinery for assuring payment of compensation benefits.

Some jurisdictions have compulsory statutes, which require every employer within the scope of the compensation law to accept the act and pay the compensation specified. Hawaii is included within this group. Other jurisdictions have elective laws, which give the employer the option of either accepting or rejecting the act. If the employer rejects it, he is still liable for damages for his negligence in an action at law and is denied the customary common law defenses--assumed risk of the employment, negligence of fellow servants, and contributory negligence.

No compensation law covers all employments. Agriculture, domestic service and casual employment are usually excluded, and some states exempt non-hazardous employments. Hawaii is one of the very few jurisdictions including farm labor within the scope of the workmen's compensation act, but domestic service and casual labor are excluded. In most states, and in Hawaii, excluded employments may come under the provisions of the law through voluntary acceptance of the act by the employer. This is called voluntary

²This portion of the report is based in part upon State Workmen's Compensation Laws as of June 1, 1946, Bulletin No. 78, Division of Labor Standards, U. S. Department of Labor, Washington, D. C., 1946. See Appendix A setting forth in tabular form the insurance requirements of the various states. For treatment of the administration of the workmen's compensation law in Hawaii see p. 29, and following.

coverage, because the employer generally loses no rights nor defenses if he does not accept. Thus, in operation a compensation law may be either compulsory or elective as to certain employments and voluntary as to others. In Hawaii, the compensation law is compulsory as to most all employments, and provision is made by statute for the voluntary coverage of excluded employments.

To make certain that benefit payments will be made, employers covered by compensation laws are required to obtain insurance or give proof of their qualifications to pay the benefits out of their own assets.³ If an employer assumes his own risk, rather than obtaining insurance, this is referred to as self-insurance. In all states but Nevada, North Dakota, Oregon, Texas, Washington, and Wyoming, self-insurance is allowed. Hawaii, too, permits self-insurance.

State agencies writing workmen's compensation insurance exist in 18 states and Puerto Rico. In 7 of these states⁴ and Puerto Rico the system is called "exclusive"⁵ because employers are required to insure with the state fund and are not permitted to insure with private insurance carriers.

³Only in Alabama is the employer covered by the compensation law required neither to insure nor furnish proof of his ability to pay benefits. Andrews, John B., Progress of State Insurance Funds Under Workmen's Compensation, Bulletin No. 30, Division of Labor Standards, U. S. Department of Labor, Washington, D. C., 1939, p. 2.

⁴Nevada, North Dakota, Ohio, Oregon, Washington, West Virginia, and Wyoming.

⁵The less euphonious name of "monopolistic" fund is also encountered in references to these systems. In all of the provinces of Canada which have workmen's compensation laws, the acts provide for insurance in exclusive public funds. Dawson, Marshall, Problems of Workmen's Compensation Administration, Bulletin No. 672, Division of Industrial Accidents, Bureau of Labor Statistics, U. S. Department of Labor, Washington 1940, p. 20.

Competitive state funds exist in 11 states,⁶ where employers desiring to insure their risks are given the option of having insurance policies written by private insurance carriers or the state fund.

The early trend in the creation of state funds was toward the exclusive fund. In 1913 there were 3 exclusive funds and only 1 competitive fund in operation. By 1919, exclusive funds in the United States had increased to 8 in number, including Puerto Rico, but 9 competitive funds had been created. Subsequently, 2 more competitive funds, in Arizona and Oklahoma, were established. Puerto Rico's exclusive fund met with financial difficulties, was converted into a competitive fund, and was later reestablished in 1935 as an exclusive fund.

In the 11 states where competitive state funds operate, they generally write a sizeable portion of all workmen's compensation premiums in the state, ranging from 98½% in Arizona down to a little over 4% in Oklahoma. In addition, in some states such as California and New York, the state funds are the largest single writers of workmen's compensation premiums, even though their share of total premiums is not as striking as Arizona's. Six funds, all competitive except one, reported ability to write employer's liability insurance or insurance under the Federal Longshoremen's and Harbor Workers' Act in addition to workmen's compensation and occupational disease insurance.

⁶Arizona, California, Colorado, Idaho, Maryland, Michigan, Montana, New York, Oklahoma, Pennsylvania, and Utah.

Workmen's Compensation Insurance Premiums Written in 1946

--Competitive State Fund States--

State	Fund's Premiums ^a	Total State Premiums	Fund's Per Cent of Total Premium ^b
Arizona.....	\$ 5,676,522 ^{c,d}	\$ 5,757,693	98.59
California...	18,069,881	73,457,951	24.59
Colorado.....	2,117,885	3,930,024	53.89
Idaho.....	591,888	2,066,888	28.64
Maryland.....	617,963 ^e	6,779,145	9.12
Michigan.....	2,190,034	22,698,629	9.65
Montana.....	1,200,000	1,901,528	63.11
New York.....	28,757,454 ^c	139,429,750	20.63
Oklahoma.....	340,000	7,700,000	4.42
Pennsylvania.	3,148,303 ^f	30,664,882	10.27
Utah.....	1,240,534	1,833,611	67.66

a Figures are net premiums written unless otherwise indicated; Colorado, Idaho, and Montana did not indicate nature of premiums reported.

b In states where fund rates are lower than manual rates, their percentage of total premium would be proportionately greater if their premiums were shown computed according to manual.

c Net earned premiums.

d Includes \$118,655 for occupational diseases.

e Fiscal year ending June 30, 1946.

f Direct writings.

Source: Correspondence with competitive funds and state insurance commissioners.

These figures fail to reveal the full importance of the position of the competitive state fund. In some states, less than full manual rates⁷ applicable to private insurance carriers are charged by the state competitive fund. For example, the New York state fund allows an initial discount

⁷"Manual rates" refer to rates per one hundred dollars of payroll for different classes of work compiled by the National Council on Compensation Insurance or independent workmen's compensation rating bureaus and incorporated into a manual (see pp. 7-8, infra.).

of 25% to standard risks, the Idaho state fund fixes its rates at approximately 25% below the National Council on Compensation Insurance rates for Idaho, and the Utah state fund permits a 20% saving in the initial premium. Four states reported estimated premiums which would have been received for 1946 if full rates observed by private carriers had been charged: Colorado, \$3,025,550, an increase of about \$900,000; Idaho, \$700,000, an increase of over \$100,000; New York, \$36,082,125, an increase of approximately \$7,300,000; and Oklahoma, \$400,000, an estimated \$60,000 of additional premiums.

When the premiums written by the exclusive state funds are also taken into consideration an even more imposing picture of the position of state funds in the United States is presented:

Workmen's Compensation Insurance Premiums
Written in 1946

--Exclusive State Funds--

State	Premiums
Nevada ^{a,b}	\$ 1,560,566
North Dakota ^b	1,123,628
Ohio	28,544,348
Oregon ^c	9,993,073
Washington ^d	10,251,364
West Virginia ^b	8,463,769
Wyoming	811,177

a Net earned premiums for compensation and accident benefits.

b Fiscal year ending June 30, 1946.

c Fiscal year 1946-47; Oregon includes contributions by employees, also.

d Includes industrial insurance and medical aid.

Source: Correspondence with exclusive funds.

Private stock casualty carriers reported \$325,154,000 workmen's

compensation premiums written in 1946.⁸ This compares with approximately \$124,700,000 written by state funds during the same period.

2. Comparative Costs of Workmen's Compensation Insurance

In determining the relative expense to the employer of insurance with the several types of insurance carriers, little can be gained by a comparison of insurance rates of one state with another. Wide variations exist, due to differences in compensation benefits, in classification of industries, in the hazards inherent in the industries of the area, and in the methods adopted for fixing rates. A sounder basis of comparison is furnished by contrasting administrative costs. Even this is not too satisfactory for mere cheapness of administration may indicate serious curtailment of essential services. Conversely, high administrative cost is not, in itself, proof of satisfactory service.⁹ Consequently, when considering the administrative costs of various types of insurers it must be borne in mind that the comparisons are relative and may be erroneous because of failure to measure adequately the quality or amount of services rendered.

Compensation insurance rates represent evaluations of the cost of furnishing compensation benefits as well as the cost of the benefits themselves. They are arrived at through reference to past experience and incorporation of the anticipated effect of future changes. This is greatly

⁸Best's Insurance Reports (Casualty, Surety, and Miscellaneous) 1947-48. pp. vii, viii.

⁹To afford a scientific basis of comparison, schedules of services rendered should be established as a yard stick, and definite weightings assigned for specific items of service. See Dawson, Marshall, Problems of Workmen's Compensation Administration, Bulletin No. 672, Bureau of Labor Statistics, U. S. Department of Labor, Washington, D. C., 1940, p. 154.

facilitated through the exchange of information and the collating of statistical data. The National Council on Compensation Insurance, 11 independent private rating organizations, and the 2 state rating organizations which exist for this purpose prepare rates for all states except the 7 with exclusive state funds.¹⁰ In most states, the laws provide for final rate regulation by a state agency, with the rates submitted by the National Council or other rating organization being subject to approval or disapproval.¹¹

Although variations exist from state to state, only about 60 cents of each premium dollar collected by stock and mutual insurance carriers is used to pay compensation benefits. The balance, 40 cents, is utilized in meeting administrative expenses--servicing, administering, and acquiring business. This 40 cents does not include any loading for underwriting profits or contingencies, and may be broken down as follows:¹²

	<u>cents</u>
Claim adjustment expenses	8.0
Inspection, accident prevention, and maintenance of rating bureaus	2.5
General administration	7.5
Payroll audit	2.0
Taxes, licenses, and fees	2.5
Production costs (agents, brokers, etc.) ...	<u>17.5</u>
	40.0

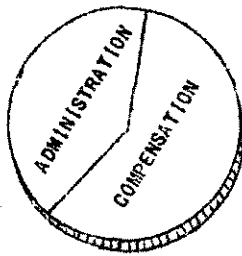
¹⁰The rating systems of some of the exclusive funds resemble those followed by private insurers; others are entirely unique. Lang, Frank, Workmen's Compensation Insurance, Chicago, 1947, pp. 168-176.

¹¹Ibid., p. 160. Even as to exclusive state funds, the same standards of reasonableness, adequacy, and fairness apply. At times, rates in exclusive state funds have not met these standards, having been influenced by political rather than by actuarial considerations. Dodd, Walter F., Administration of Workmen's Compensation. The Commonwealth Fund. New York, 1936, p. 550.

¹²Lang, op. cit., p. 166. See also, Dodd, op. cit., p. 554.

The operating cost of some mutual insurance carriers is about half that of the stock companies, which may be explained in part by the practice of rigidly selecting the risks that are accepted, a process which has been called "skimming the cream."¹³ For dividends to be paid to stockholders or dividends to be paid to policyholders by stock companies writing participating policies, or for dividends to be paid by mutual insurance carriers or by state funds, there must be either a loss ratio more favorable than 60 cents on every premium dollar or part of the 40 cents loading for administrative expenses must be saved.

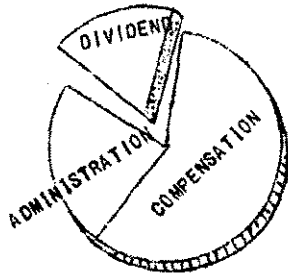
Comparisons generally assume the same loss ratios (60¢) for all types of carriers. This is well demonstrated by the following illustration contained in a pamphlet issued by the State Compensation Insurance Fund of California, a competitive fund;¹⁴



"Non-participating Carrier. If you insure with a non-participating carrier, approximately 60 percent of your premium dollar is set aside for the payment of compensation benefits to injured employees and their dependents. The balance is absorbed by agents' commissions, overhead, home office expenses (often in other states and foreign countries), and stockholder dividends.

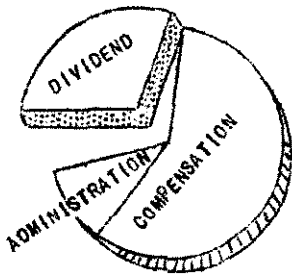
¹³Dawson, Marshall, Problems of Workmen's Compensation Administration. Bulletin No. 672, Bureau of Labor Statistics, U. S. Department of Labor, Washington, D. C., 1940, pp. 22-23. Also, mutual carriers generally do not sell compensation insurance on the commission plan, but acquire business through salaried employees; this reduces operating costs. Dodd, Walter F., Administration of Workmen's Compensation. The Commonwealth Fund. New York, 1936, p. 528.

¹⁴California State Compensation Insurance Fund, Protection for Employers and Employees, San Francisco, 1947, p. 11.



"Participating Carrier. If you insure with a participating carrier, the same 60 percent is for compensation benefits. Then, after agents' commissions, administrative charges and overhead expenses have been taken care of, whatever is left over becomes available for dividends. However, these dividends, in the stock participating carrier, must be shared with the stockholders.

"The State Fund. If you insure with the State Fund the same 60 percent of your premium dollar is allocated for compensation benefits. But the Fund does business directly with employers. It has no commissioned agents and no stockholders. Therefore, with a much lower administrative cost, a considerably larger amount of your premium dollar is returned to YOU.



All underwriting profits, savings in overhead, and investment income are converted into policyholder dividends. All premium returns are made in relation to the individual policyholder's loss experience. Thus, your share in the surplus is in direct proportion to your contribution."

In a contrast of costs, expressed in money terms, of ". . . compensation insurance underwritten by different types of insurance carriers, the monopolistic state fund seems to cost employers the least, with the competitive state funds and mutuals next in line, while insurance in the private stock company is highest priced of all."¹⁵ Private carriers assert that the

¹⁵Dodd, op. cit., p. 558.

low cost of public carriers is achieved in part through failure to pay taxes.¹⁶ They also allege the discrepancy is due to hidden subsidies,¹⁷ to inadequate administration, and to some of the services performed by private carriers being passed on to employers and borne by them in public insurance states. Particularly, they point to private service bureaus supported at the expense of the employers in the exclusive fund states of Ohio and Washington.¹⁸ Conversely, proponents of the public carrier deny the validity of an indictment so general in scope, and assert savings may be realized through efficiency in administration which eliminates duplication as well as "unnecessary" expenses,¹⁹ such as a major portion of the 17½ cents of the premium dollar, expended by private carriers for commissions to agents and brokers and for other costs necessary to their supervision. But even granting the validity of all of the allegations of the private carriers, and that the efficient administration of an exclusive state fund will cost 15%,²⁰ or a little more, of the premium dollar, it would appear that the exclusive state fund would still be the insurance carrier furnishing insurance at lowest cost to the employer.

¹⁶See p. 28, infra.

¹⁷See p. 27, infra, for shifting of fund's burden from policyholders.

¹⁸See Lang, op. cit., pp. 196-200.

¹⁹For a defense of the agency system, see Lang, op. cit., pp. 188-194. For criticism of taking large commissions each year upon workmen's compensation see Dodd, op. cit., pp. 591-2. It should be noted that the bulk of the business of the Michigan competitive fund originates through insurance agents who are paid a commission of 10% of the net earned premiums so written; however, the fund's total acquisition costs for 1946 only amounted to 8.58%.

²⁰Figure suggested by Dodd, op. cit., p. 557.

Administrative Expenses of State Funds for 1946^a
 --Expressed in percentage of premiums^{b--}

Competitive Funds	Percent	Exclusive Funds	Percent
Arizona	9.7	Nevada	4.6 ^d
California	15.6	North Dakota	11.7 ^d
Colorado	8.4	Ohio	(f)
Idaho	12.7 ^c	Oregon	10.9
Maryland	12.6 ^d	Washington	(f)
Michigan	24.3 ^e	West Virginia ...	4.6 ^d
Montana	(f)	Wyoming	4.5
New York	23.6 ^g		
Oklahoma	15.4		
Pennsylvania	17.0		

a Including expense of adjusting claims. Data for Utah was not furnished.

b When other income is included, the percentage is proportionately smaller.

c January to June, 1946.

d Fiscal year ending June 30, 1946

e Includes 8.53% for acquisition expense.

f Montana--90% of administrative expenses from state treasury; Ohio--all administrative expenses other than 1% of premiums from state treasury; Washington--3.71% of Medical Aid Fund collections used for administrative expenses, balance from state treasury.

g At full rating board rates this would have been 18.8%

Source: Correspondence with state funds and annual reports. In a few cases approximations were employed in order to permit comparability of data.

Self-insurers furnish compensation benefits directly to their employees, and thus attempt to eliminate a sizeable portion of the 40 cents "expense loading" of the insurance premium. As well stated by Dodd,²¹ "if a large self-insurer conducts his compensation department along scientific insurance lines and maintains adequate claim and medical service, he will not be spared

²¹Dodd, op. cit., p. 520. See also pp. 558-9 for discussion of savings.

the whole of this amount but may save a substantial part of it." On the other hand, he is subjected to the risk of unforeseeable liability as the result of catastrophe. In addition, the self-insurer may take hidden losses, as in computing income taxes where he may charge as an expense only benefits actually paid or put into a fund after an award has been made.²²

3. Structure and Administration of State Funds²³

a. Top Management:

The usual form of top management provided for in the administrative structure of the state fund is a board or commission, appointed by the governor, formulating policy, with the chief administrative officer of the fund appointed by the board and serving as the fund's manager. There are many exceptions, and about half the exclusive state funds do not fall within this generalization.

In California, the 5 member board of directors of the competitive fund consists of the director of industrial relations and 4 fund policyholders who are appointed by the governor for overlapping, 3 year terms. In New York, a

²²Liability for the payment of workmen's compensation benefits may extend over several years, or even a lifetime. Should a self-insurer attempt to create a reserve for this incurred, but unpaid, loss in the absence of an award having been made, he cannot deduct the amount of the reserve as an expense for income tax purposes; he can only deduct the actual expenditures in the year they are made. As a result, liability may be incurred and reserves established in periods when declarable income is in the higher tax brackets, but not actually be paid, and thus be allowable as a deduction, until periods when income is smaller. See Analysis of Provisions of Workmen's Compensation Laws and Discussion of Coverages, Insurance Department, Chamber of Commerce of the United States, Washington, D. C., 1946, pp. 7, 8.

²³Based on letters from the respective state funds and Andrews, John B., Progress of State Insurance Funds Under Workmen's Compensation, Bulletin No. 30, Division of Labor Standards, U. S. Department of Labor, Washington, D. C., 1939.

similar qualification (policyholder or executive officer of a policyholder) is required of the 8 members appointed by the governor for 3 year terms to the board of commissioners of the New York competitive fund. The state industrial commissioner serves ex officio as ninth member of the board. Policyholders advisory councils located in various parts of New York assist the board of commissioners in the formulation of policies. Maryland's 5 members of the state fund commission (competitive fund) serve for longer terms, 5 years, and as in California receive their appointments from the governor for overlapping periods. In each of these 3 states a single administrative officer is appointed by the board to manage the fund.

Besides their responsibility for formulating policy for their respective state funds, the boards in Arizona (competitive), Colorado (competitive), North Dakota (exclusive), Ohio (exclusive), Oregon (exclusive), and Utah (competitive) also are charged with the administration or enforcement of allied labor legislation, such as industrial safety laws and unemployment compensation. The boards in all these states are composed of 3 members appointed by the governor for overlapping terms of 6 years, with the exception of Oregon where the term is for 4 years. In Colorado a manager is appointed by the commission, and in Oregon an administrator acting as an assistant commissioner manages the fund. All administrative duties are canalized through the secretary of the industrial commission in Ohio.

Montana (competitive), Nevada (exclusive), Oklahoma (competitive), and Pennsylvania (competitive) present interesting variations. In Montana, the 3 member commission is composed of 2 officers serving ex officio and a third member appointed by the governor as chairman. The third member of the Nevada commission, instead of being appointed by the governor as are the other 2 members, is chosen by a special board of state officers of which the

governor is a member. The Oklahoma fund is managed by a single commissioner whose power is restricted as to the appointment of personnel and the fixing of rates, both of which must be by and with the consent of the board of managers; the latter is composed of 3 state officers serving ex officio, one of whom is the governor, and appoints the commissioner. In Pennsylvania, the fund is organized as a bureau of the department of labor and industry. The Pennsylvania fund is under the jurisdiction of a board composed of 3 state officers, also serving ex officio, and the administrative duties are in the hands of an appointed manager and assistant manager.

Primary control of the Michigan state fund is vested in the state commissioner of insurance, who is assisted by an advisory board of 15 contributing members of the fund. Power to fix salaries and to approve the appointment of a manager and other employees is in the hands of this advisory board.

In 4 states, Idaho (competitive), Washington (exclusive), West Virginia (exclusive) and Wyoming (exclusive), the funds are administered by single administrators without boards to set policy or serve in an advisory capacity. Idaho abolished a commission in 1941 after a 2 year trial, and placed the fund under the direct supervision of a manager appointed by the governor, returning it to exactly the same status as when it was first created in 1917. The West Virginia fund is administered by the state compensation commissioner who is appointed by the governor. The Washington fund is a division in the department of labor and industries and is administered by a supervisor, subject to the overall supervision of the director of the department. Similarly, the Wyoming fund is a department under the state treasurer's office, with the manager of the fund controlling the financial and administrative policies of the fund with the approval of the state treasurer.

b. Functions and Activities:

The state workmen's compensation insurance fund is primarily an insurance carrier operated publicly rather than privately. The same functional needs which have influenced the structure of private carriers also serve to shape the structure of public carriers into a similar mold. This uniformity is further enhanced by the inter-exchange of personnel between private and public carriers, with the resulting tendency to carry over into the public carrier the practices of private insurance which had been developing for a good many years prior to the enactment of the first workmen's compensation law and the writing of the first workmen's compensation insurance policy.

If the state fund is to handle claims for compensation benefits--and only the fund in Wyoming operates under a state workmen's compensation law which provides for court administration of compensation claims--it must have a staff to review the claims and furnish the benefits. This department may also include the person who is charged with the disbursement of moneys. Likewise, the fund must have a department which writes insurance policies and collects insurance premiums.

Depending upon the volume of insurance written by the state fund, other internal units will be created to render more specialized services. A legal department to advise the management of the fund on matters of law as well as to represent the fund before the courts, a medical department to supervise the medical administration of cases, an investigation department²⁴ to obtain more specific information on very serious, questionable, or incomplete claims--all of these units appear as volume permits specialization. On the financial

²⁴This department may also be assigned payroll auditing functions, as in Maryland.

side, an actuarial department concerned with the compiling of statistics, the fixing of premium rates, and the maintenance of adequate reserves will develop as a department independent of the unit charged with recording receipts and disbursements and keeping record of each policyholder's account. To the extent payroll records of policyholders are examined in the field, the need for a separate payroll audit department may arise. Division of effort in the underwriting department may be reflected in one unit which determines policy terms and applies the appropriate rates to the risks covered, and another unit which specializes in the acquisition of insurance.

The sheer increase of size will multiply problems of management, thus necessitating departments whose services are directed toward facilitating internal administration--personnel, budgeting, purchasing, coordination. To the extent the fund attempts to furnish safety-engineering advice, to encourage and aid the rehabilitation of injured workmen, to concentrate upon the identification and prosecution of employers failing to insure as required by law, separate departments to render these services will be created.

c. Field Offices:

In addition to field activities, such as payroll auditing, claim investigation, and accident prevention, about one-third of the state funds maintain branch or district offices. The Los Angeles branch office of the California fund has a large degree of autonomy, and except for a few functions centralized in the home office, is responsible for the administration of the fund's activities in Southern California. In addition, district offices are maintained throughout the state, performing local field services, soliciting and renewing insurance, and generally responsible for the coordination of all services within the district; one district adjusts its own claims under the supervision of the Los Angeles branch. The Washington

fund is now in the midst of reorganization, changing from a concentrated organization to self-contained units, each servicing a geographical area of the state. Within each district, all claims and awards will be handled entirely without outside routing, except for mechanical statistical recording and payment processing. With the completion of the reorganization, the various units will probably have a large degree of autonomy similar to that of the Los Angeles branch office of the California fund.

The New York fund maintains 4 district offices, and a similar number of subsidiary offices called "branch" offices. The district office manager reports directly to the executive director of the fund, but has functional responsibility to each home office department head insofar as the latter's function is concerned in the district manager's territory. Thus, the district manager handles claims, medical, underwriting, payroll auditing, safety service, policyholder service, personnel, and office administration. The branch offices report and are responsible to the district office manager, and in general are limited to servicing policyholders, developing new business, and retention of present business. The Ohio fund has twelve branch offices in principal cities throughout the state, and the Pennsylvania fund has nine district offices.

The Oregon fund reported two branch offices established primarily for the accommodation of the public and to expedite the handling of business in the areas in which they are located. All directive authority and responsibility of operation, however, is centered in the home office. The Arizona and Michigan funds have each similarly established a branch office which is primarily a service agency and subject to home office control.

It would appear that geographical distances, concentrations of population, and specialization of industry have all contributed toward de-concen-

tration of administration and the creation of field facilities. These forces are encountered both in competitive and exclusive fund states, and the establishing of local offices is thus not limited solely to one or the other forms.

d. Relation to Other State Agencies:

Attorney general. About one-third of the state funds maintain a close relationship with the office of the attorney general. The attorney general in Wyoming represents the fund in all legal proceedings. The chief counsel of the Pennsylvania fund is a deputy attorney general, and a special attorney assigned from the office of the attorney general handles the Maryland fund's legal matters. There are 7 assistant attorneys general in the Oregon state fund who represent the fund in all court cases. The attorney general, himself, is a member of the board of managers of the Oklahoma fund.

Civil service. Selection of state fund personnel in the states of California, Colorado, New York and Oregon is supervised through the civil service commissions of the respective states. The classification of positions as well as minimum and maximum salary ranges are also the responsibility of these commissions. The Pennsylvania fund being a bureau in the department of labor and industry, its personnel policies are fixed through the relationship existent between the department and the state personnel secretary.

In contrast, personnel policies are determined by the management of the Idaho, Maryland, Ohio, Washington, and West Virginia funds. The consent of the board of managers (consisting of the governor, attorney general, and secretary of the insurance board) is a prerequisite to appointments by the commissioner of the Oklahoma fund. Although Michigan has a state civil service act, the attorney general has ruled that fund employees are not covered by it, and the fund has complete control over its personnel policies. However,

the Michigan fund's advisory board, which serves as a salary fixing agency, has endeavored to keep salaries in conformity with those paid under civil service. The manager of the Wyoming fund has control of personnel policies with the approval of the state treasurer, but rules set by the state board of supplies governing vacations, sick leaves, etc., are observed.

Budgetary control and allied financial surveillance.²⁵ Apparently no fixed pattern exists with regard to the relation of the fund to the agency of the state charged with the duty of approving administrative budgets. Likewise, control over administrative expenditures of the fund may vary from almost complete autonomy on the part of the fund to observance of all requirements governing purchases, travel, audit, etc., applicable to other administrative agencies.

Several examples from competitive fund states illustrate this wide diversity. The Maryland legislature establishes maximum administrative expenditures for the Maryland fund through the approval of a budget submitted by the governor. Expenditures of the Idaho fund are determined by the management of the fund subject to the approval of the state board of examiners. The budget of the Oklahoma fund must meet the approval of only the fund's board of managers, although, of course, one of the members of the board is the governor. In 1947 a state control bill was enacted in Colorado giving to the state controller the responsibility of pre-audit of expenditures, as well as post-auditing the accounts of the Colorado fund. The funds in California and New York are like any other state agency in that purchases must be made in compliance with state purchasing procedures and standards

²⁵For maximum limits upon administrative expenditures see "administrative expenses," p. 24, infra.

for travel expenses are set by another state agency. The budgetary conditions of the New York fund differ from other state agencies only in that the fund submits its budget requirements quarterly while other agencies operate on an annual basis; like other state agencies, the fund's expenditures are pre-audited by the state comptroller, who maintains a staff in the various offices of the fund. In Arizona and Michigan, the management of the respective state funds have full control over expenditures.

In states with exclusive workmen's compensation insurance funds the same diversity is encountered. Administrative costs in Ohio and Washington are paid by legislative appropriations, which serve to limit the amount and purposes of expenditures. The office of the director of the budget in Washington exercises a nominal supervision over these expenditures, also. Though the Oregon fund pays its administrative costs from premiums, the state purchasing board controls all the fund's purchasing and the state budget director is consulted when an extraordinary disbursement is contemplated. Greater autonomy appears to exist among other of the exclusive funds.

e. Distinctive Structure of Exclusive State Funds:

In the competitive fund states the state must maintain a workmen's compensation commission or similar agency to supervise the activities of the private carrier. The determinations of the casualty company's claims agents are not controlling and particularly in cases of contested claims or questionable claims adjusting procedure, the governmental agency must investigate accidents, determine liability, and fix the extent of injuries. The fund in such states generally bears to the supervising agency the same relationship as private insurance carriers. Duplicate reports of injuries are made to the fund and to the supervising agency, and both may investigate compensation

claims. In other words there is duplication of effort, man power, and material.

In the exclusive fund states, duplicating public agencies receiving reports of injuries, investigating claims, and supervising the furnishing of compensation benefits are eliminated. The statistical services may be correlated and over-laps extirpated. State safety laws²⁶ may be enforced by the same bureau which is concerned with safety engineering from the viewpoint of minimizing accidents to persons covered by workmen's compensation laws. The elimination of the practice of the best risks going to private carriers, the "skimming of the cream" feature, removes the necessity of the fund's unduly concentrating attention upon claims in order to assure a favorable competitive picture. Likewise, in place of soliciting insurance,²⁷ effort may be diverted to identifying employers seeking to avoid compliance with the law through non-insurance. All this, of necessity, exerts an influence on the shaping of the internal structure of the exclusive fund.

Compensation acts are as much a part of the social security movement as unemployment insurance.²⁸ It should be possible to integrate partially

²⁶"A purely monopolistic state fund has perhaps the best opportunity in the field of accident prevention, because it carries all risks within the state and may effectively coordinate accident prevention and merit rating, and also because those in control of the fund may also control the establishment and enforcement of state safety codes. It can hardly be said, however, that any exclusive state fund has made full use of its opportunities." Dodd, op. cit., pp. 561-2.

²⁷Conceivably, the difference in type of fund may be reflected even in the form of the policy. It is possible for an exclusive fund to substitute for the detailed policy of private carriers a simple certificate which recites only the employer's name and address and the risk class or classes to which his business is assigned, with the corresponding premium rates. Downey, E. H., Workmen's Compensation, New York, 1924, p. 98.

²⁸See Horovitz, Samuel B., Injury and Death Under Workmen's Compensation Laws, Boston, 1944, p. 394. In North Dakota, the unemployment compensation division and the state employment service are under the control of the same commission which administers the state fund, but are conducted entirely separate from the fund.

the administrative agencies furnishing these two types of insurance, with a consequent material saving to the employer in the mere matter of payroll reporting, not to mention the elimination of duplicating public expenditures for auditors, investigators, and overhead. In answer to an inquiry, the Bureau of Employment Security of the Social Security Administration stated there are no Federal standards which would prevent the consolidation of employers' payroll returns to a state fund under a territorial workmen's compensation law with employers' payroll returns under the territorial employment security law.²⁹

4. Financial Structure and Supervision

a. Original Capital:

No fixed pattern has been followed in establishing the initial working capital of the various state funds. Competitive funds like Maryland, Michigan and Montana, and the West Virginia exclusive fund obtained their capital solely from employers' premiums. The act creating the fund in Colorado carried an appropriation of \$20,000 for the initial premium due the fund for coverage of state employees.

State funds in Idaho (\$20,000), Oklahoma (\$25,000), Arizona (\$100,000), California (\$100,000), New York (\$300,000), and Pennsylvania (\$500,000) received initial appropriations from the state in the amounts shown following the names of the respective states. All of them are competitive funds. Wyoming, an exclusive fund, was initially granted \$68,817.56 by the legislature, and subsequent appropriations totalled \$160,000. With the exception of New York, whose legislature does not require that the money appropriated

²⁹Letter of R. G. Wagenet, Director, dated March 22, 1948.

be refunded, all of the money so appropriated has been returned. The California fund reports that during the time it had custody of the \$100,000 initially granted to it, it paid 4% interest on the money to the state.

Four exclusive funds--North Dakota, Ohio, Oregon, and Washington³⁰--were financed through legislative appropriations not required to be returned to the state treasury. In the case of the Ohio and Washington funds, all of whose expenses are paid from legislative appropriations and not out of premiums, the initial contribution was imperative to meet operating costs. The \$50,000 which the Oregon fund received in 1913 was supplemented by additional sums up to 1924, totalling \$957,786.57. The state of Oregon has since declared that it has no proprietary interest in the money of the Oregon fund, and expressly waives any right to reclaim any contributions made by the state.

Once having furnished the original capital, no state except Nevada and possibly New York, guarantees the solvency of its fund.³¹ The New York Attorney General has ruled that as employers insuring with the fund are freed from all liability, this results in the state having assumed a moral obligation toward the fund.

b. Administrative Expenses:

Only two states--Ohio³² and Washington--make separate provision for all administrative costs of the state fund to be paid from money in the state treasury. Both of these funds are exclusive state funds. Ninety percent of the expenses of the Montana fund, a competitive fund, are paid from the state

³⁰North Dakota, \$50,000; Ohio, \$125,000; Washington, \$150,000.

³¹Dodd, op. cit., p. 537. However, no loss to an employee is likely to result from a state fund, either competitive or exclusive, due to the political considerations involved. Idem, p. 551.

³²One percent of premiums collected in Ohio is earmarked for safety and hygiene purposes, preventing industrial accidents and diseases.

treasury, and it may be classed along with these two exclusive funds.³³ In the other states administrative expenses are paid from premiums collected by the fund.³⁴ This does not necessarily mean, however, that the management of the fund has free discretion to determine the maximum amount of the administrative expenses which may be incurred.

The Arizona, California, Michigan, Montana and Pennsylvania funds--all competitive funds--operate without limitations on administrative expenses having been created by the legislature. Administrative expenditures must be kept within maxima, expressed in percentages of premiums, written into the laws creating the funds and providing for their operation in Colorado, New York, Oklahoma, and Oregon; the first three funds are competitive and the latter is an exclusive fund. Actually, reports indicate that administrative costs are kept well below these statutory maxima. In Idaho, Maryland, North Dakota, West Virginia and Wyoming, the legislature fixes the maximum budget of the fund each biennium; the latter three states have exclusive funds, while there are competitive funds in Idaho and Maryland.

Three methods of establishing limits on administrative expenses have been referred to: (i) legislative appropriation out of general funds; (ii) budget approved by the legislature and paid from the fund's premiums; and (iii) fixing by statute of the maximum amount of premiums which may be utilized. In addition, the management of a few funds establish their own maxima for administrative expense solely through administrative determination.

It appears to be generally considered that restricting administrative

³³Ten percent of the administrative expenses for the Montana fund are met from premiums of the fund.

³⁴Minor exceptions to the rule exist, as for example, salaries of the commissioners of the Arizona fund are paid out of moneys in the state treasury. Information was not obtained for the Utah fund.

expenses of a state fund to the amount of a biennial legislative appropriation tends to unduly limit the services of the fund.³⁵ This is true whether the limitation takes the form of a budget payable from the premiums collected by the fund, or an appropriation out of the state treasury. If the money appropriated is inadequate, the fund must "muddle along," and trim its services to fit its budget. In exclusive fund states, particularly, this may result in shifting of some of the essential services to the employer, with his employees performing duties which the fund's staff should more properly undertake. The extent to which this is possible in competitive fund states would in part depend upon the nature of the services being furnished by competing private insurance carriers.

Some jurisdictions which have not seen fit to restrict the management of the fund through the biennial appropriation, have erected safeguards against excessive administrative expenses through incorporating into the statute a maximum percentage of premiums received under which the fund must operate. If the percentage is too low, particularly if it is low and is based upon the previous year's premium collections, may necessitate a very serious curtailment of services in a year of markedly expanding business following a year having a small volume of premiums. Likewise, in a period of excessive price fluctuation the fund may find its expenses rapidly rising but its permissible administrative expenditures tied to a period when premiums were measured in a more valuable dollar. The result, just as in the case of funds limited to legislative appropriations, is curtailment of services.

³⁵"Support by legislative appropriations--almost invariably produces 'deficient' administration." Dawson, *op. cit.*, p. 159; see also p. 162. See Buffler, Louis, The Autonomy of Budgets. Paper delivered before International Association of Industrial Accident Boards and Commissions at its meeting in Toronto, 1947.

c. Shifting of Fund's Burden from Policyholders:

In view of the inter-relation of all governmental agencies, to a certain degree it is not possible or not practicable to divorce expenses of the state fund from the general costs of running the government. To the extent that these items are not acknowledged in the fund's reports, they serve to furnish hidden subsidies. Of necessity, they contribute to the lower operating expenses of the funds as compared with private carriers. The state funds, in turn, claim that in part they serve to compensate the fund for handling of injuries to public employees for which they do not receive the same premium as they would from private employers. Thus, the materiality of these subsidies remains in dispute.

Among the competitive funds, California, Colorado, and Michigan pay rent to the state from premium income for the use of public buildings. Similarly, exclusive funds in Oregon and Washington rent their offices from the state. Idaho, Maryland, New York, and Pennsylvania funds rent their offices from private owners and pay rentals from premium income; in these four states the state funds are competitive funds. In addition to occupying public quarters without charge, the Ohio fund also rents office space in private property. Home offices are owned by the exclusive fund in Nevada and the competitive fund in California.³⁶ Some of the funds also reimburse their states for services furnished by public employees, and for their proportionate share of the cost of utilities, phones, and similar charges.

From a review of the provisions made for reimbursing the state for quarters and services furnished by the state, there would appear to be grounds

³⁶The California fund also rents private quarters, as well as space in public buildings, commented upon above. The New York fund was recently authorized to purchase a home office building, and is now considering possible sites.

for the private carriers' complaint of governmental subsidies. However, the extent to which they are made varies in each state. The records of the state funds which attempt to reimburse the state for all such expenses would tend to indicate the lower expense ratios of the state funds cannot be explained away in this manner.

Private insurance carriers also point out that private carriers must pay taxes, which are added to their expense of operation. As a rule, state funds are not similarly taxed.³⁷ However, Dawson suggests that even after allowance is made for taxes paid by the private carriers, the operating cost of stock carriers expressed in approximate terms would be more than four times the average cost of administering exclusive funds.³⁸

In making provision for the administrative expenses of the workmen's compensation departments of the various states there is no such distinctive treatment. State funds, along with private carriers and self-insurers are generally required to support these departments.³⁹

A few of the funds have also assumed liabilities not similarly imposed upon private carriers. The Arizona competitive fund is required to pay compensation benefits for self-insurers who fail to meet their legal requirements; in turn, it may seek reimbursement from the employer. Ohio's exclusive fund likewise pays compensation awards against non-insurers. Oregon's

³⁷In California, Idaho, and Utah, competitive fund states, the state funds pay insurance taxes at the same rate as private carriers. In Colorado, the competitive fund pays a premium tax of $1\frac{1}{2}\%$, which is paid by all insurance carriers and self-insurers for the purpose of setting up a safety fund.

³⁸Dawson, op. cit., p. 22. It should also be pointed out that state funds are subjected to compulsory charges and expenses not necessarily borne by private carriers, as for example, state retirement benefits, automatic salary increases, etc.

³⁹See Appendix B. Dodd adds, "Where there is an exclusive state fund, the administration of the fund and of the compensation act are closely intermingled, and it would seem proper that the expense of both the fund and the compensation act be borne by the fund." Dodd, op. cit., p. 806.

exclusive fund has a motor vehicle accident division which has charge of claims filed in automobile accident cases where the parties receiving treatment are unable to pay for such services, the claims being paid from a special fund derived from an extra charge upon driver's licenses to operate motor vehicles. To the extent such burdens are assumed by the fund, they tend to counterbalance the shifting of administrative costs from policyholders to the state through hidden services.

5. Administration of Workmen's Compensation in the Territory of Hawaii⁴⁰

In the fiscal year ending June 30, 1947, approximately 190,000 workers were protected by the territorial workmen's compensation law. It is estimated that about one-third of these workers were employees of self-insured employers, and the balance were required by law to be covered under insurance policies written by private insurance carriers. During the same period, 16,802 industrial injuries were reported, and 7,491 different employers were registered as having furnished workmen's compensation benefits. Compensation orders in an amount equal to about 5% of the industrial injuries reported (853) were issued by the bureau of workmen's compensation. Only 3 appeals were taken, 2 to the labor and industrial relations appeal board which has jurisdiction for Oahu and 1 to the industrial accident board for Hawaii.

In the last 4 years, there have been only 12 appeals from orders of the bureau to the appeal boards. The Hawaii board considered only 4 appeals and the industrial accident boards for Maui and Kauai had no occasion to

⁴⁰This portion of report based upon Annual Report of the Department of Labor and Industrial Relations, Territory of Hawaii, July 1, 1946-June 30, 1947; also, on personal interviews with officers of the Bureau of Workmen's Compensation and the Insurance Bureau.

meet. In 10 of the appeals, the appeal boards affirmed the orders of the bureau. Three cases were then appealed to the courts from the decisions of the appeal boards, the appeal boards were sustained in 2 of the cases, and 1 case is still pending.

For the calendar year 1946, 28 different insurance carriers were reported as having been engaged in the direct writing of workmen's compensation insurance in the Territory.⁴¹ The largest amount of net premiums written by a single carrier was, in round figures, \$290,000.⁴² Another carrier reported net premiums of almost the same amount. The carriers reporting the third and fourth largest net premiums in the same year each wrote a little over \$100,000 less than the leading carrier. The direct writings as well as the net premiums of all but these 4 leading carriers were less than \$150,000 for each such carrier.⁴³ Six carriers wrote net premiums of less than \$1,000, an additional 2 wrote less than \$2,000, and a ninth carrier wrote directly a little less than \$9,500 in net premiums. It is questionable whether the relatively small amount of workmen's compensation premiums written in the Territory (\$1,900,000 in 1946) would warrant the inauguration of a competitive fund in the Territory.⁴⁴

⁴¹Three carriers, in addition, assumed reinsurance, but did not engage in direct writing of workmen's compensation insurance.

⁴²Direct writings were approximately \$350,000, but reinsurance ceded by this carrier exceeded reinsurance assumed by \$60,000.

⁴³See Annual Report of the Insurance Commissioner to the Governor, Calendar 1946, p. 35. The Governor's committee in Pennsylvania recommended in 1934 "that no insurance carrier should be permitted to transact workmen's compensation insurance on fewer than 20,000 employees within the Commonwealth, nor with less than \$150,000 earned premiums within the Commonwealth." Cited in Dodd, op. cit., p. 586.

⁴⁴See Dawson, op. cit., p. 28, note 47.

For the years 1915 to 1946, inclusive, the total losses paid ran only 40.3% of total net premiums received in the Territory of Hawaii.⁴⁵ This percentage, of course, is not strictly comparable to the 60% loss ratio previously commented upon,⁴⁶ which is computed on a policy-year basis, and which assigns to all premiums on policies written in that year the losses paid or outstanding as reserves sufficient to carry to maturity each claim covered by such policies. Particularly is this true as premiums increased markedly during the war years,⁴⁷ and the losses incurred but still unpaid during that period are not yet reflected in the losses reported as paid. However, this 40.3 percentage would tend to indicate that over the period of time workmen's compensation has been written in the Territory, the loss ratio in the Territory has not been greater than that on the mainland, and probably may have been less.

In view of the relatively small amount of business written by each carrier, and the fact that only 4 agents handle more than one carrier's business, there has been no occasion for the creation of staffs specializing in workmen's compensation. Only 1 claims examiner is employed who adjusts no claims other than those concerned with workmen's compensation. The approximately 25 other specialized adjustors employed in the Territory handle fire insurance and other types of casualty insurance in addition to workmen's compensation. Some of the agents authorize their employees to both adjust

⁴⁵See Appendix C.

⁴⁶See p. 8, supra.

⁴⁷The exceedingly low percentage of 37% for the war period, 1940-1945, materially influenced the 40.3 percentage for the greater 1915-46 period.

casualty claims, including workmen's compensation, and service the other needs of the insurance business, such as payroll auditing and soliciting business. Other agents personally adjust claims for the carriers they represent, as well as perform all the services generally associated with the acquisition of insurance.

There are 2 trained safety engineers in the Territory who are employed by the carriers or their agents to inspect working premises and advise employers, but they also inspect for risks other than those involving workmen's compensation liability. One of these engineers is also licensed as an agent to solicit certain lines of insurance, and an employee who specializes in safety work serves as an aid to the other trained safety engineer. In addition, one of the carriers employs a safety engineer who travels to the Territory to inspect large risks.

In the Territory there are at present no panels of doctors specializing solely in industrial surgery. There is nothing comparable to the combination doctor's office and small industrial dressing stations encountered in manufacturing areas on the mainland. The employee may be referred to a doctor by his employer or the latter's insurance carrier, but in many cases, he selects his own physician with the tacit approval of his employer. Many of the self-insurers maintain hospitals or medical stations which care for their injured employees. The bureau of workmen's compensation has no medical staff, but is authorized to appoint impartial physicians to examine injured employees and to report back to the bureau.

The administration of workmen's compensation in the Territory is characterized by a relative informality of procedure, and a tendency for the persons adjusting claims to resort to the official bureau for informal advice in questionable situations. The small number of claims filed and the

low number of appeals give credence to the generalization that the emphasis in the Territory is against adopting a "legalistic approach" and narrow construction of the law. Liberality of compensation benefits consonant with the spirit of workmen's compensation acts are the rule rather than the exception.

Conclusion

The establishing of an exclusive territorial fund would necessitate the repeal of the provisions of the territorial workmen's compensation law relating to placing of insurance with private carriers. Pertinent procedural provisions would likewise require amendment. Finally, the structure of the territorial fund must be sketched, its powers and duties detailed, and its relation to other governmental agencies limned. The amount and nature of workmen's compensation benefits in the Territory would not be altered by the creation of a territorial fund; such amendment would be a matter of substantive change entirely independent of the existence of a territorial fund.

The funds on the mainland have experimented with both single administrative heads and commissions or boards charged with the management of the state fund. If sole responsibility for administration of the territorial exclusive fund is entrusted to a single executive, consideration may well be given to the creation of an advisory committee to aid him. The restricting of such a group to policyholders of the fund appears to have met with favorable results on the mainland. Should a commission form of management be preferred, the practice of the commission appointing a manager to administer the day-to-day affairs of the fund, the commission limiting itself to policy determination, offers much promise.

The volume of workmen's compensation business in the Territory will

not permit the territorial fund to establish the many specialized units found in the larger state funds. That, of course, does not indicate there is no need for these services, but extreme functional specialization must be eliminated in favor of the same person or unit dividing its time between servicing several functional needs. If for no other reason, this would appear to require the statutory provisions relating to the internal structure and administration of the territorial fund to be couched in general terms so as to permit the widest discretion to the management in detailing the responsibilities of internal units and shifting duties and personnel as necessitated.

The experience of state funds in the operation of field offices should stand the territorial fund in good stead. The lack of geographical continuity of the area to be serviced indicates the advisability of establishing field offices in the outer islands, with the home office in Honolulu. Probably the volume of business in the outer islands will not permit each field office to employ a staff large enough and sufficiently skilled to handle all business in its area comparable to the autonomy planned for field offices in the state of Washington, or of the Los Angeles branch of the California fund. However, the initial adjustment of claims as well as the writing of insurance policies and the contacting of employers, all under home-office supervision, may well be allocated to the field offices.

The relation which the territorial fund should bear to the other territorial agencies appears to be dependent partially upon the emphasis placed on the safeguards of civil service, executive approval of large expenditures, audit, etc. It also appears to be dependent on the economies which may be gained through part time employment of members of the staff of the attorney general, through housing in an established department and thus consolidating "house-keeping" functions such as accounting, purchasing, etc., or even

through creating an independent status for the fund but subjecting it to centralized purchasing requirements, etc.

If the submission of a budget for executive approval is believed necessary, greater flexibility may need be afforded the territorial fund than to other governmental agencies not so closely associated with the business life of the Territory. The experience on the mainland would appear to indicate the advisability of permitting the territorial fund to pay its administrative expenses from the premiums it receives, rather than to be made to rely upon appropriations from the general fund. The establishing of maximum expenditures by legislative action, either through the approval of a biennial budget by the legislature or the incorporation of a fixed maximum percentage into the law creating the territorial fund has tended to hamper the administration of funds on the mainland; if a statutory maximum is believed desirable, serious consideration should be given to adopting a percentage-of-premiums formula set sufficiently low as to guard against administrative extravagance and yet not so low as to hamper efficient administration.

Some state funds were able to commence without an appropriation to furnish operating capital. However, to bridge over the initial period from statutory authorization to formation and operation some agency must have had to assume the responsibility and the expense, even if the latter were subsequently repaid. To avoid such a fiction, an initial appropriation appears in order, coupled with the repayment of the appropriation when the territorial fund has established adequate reserves. The determination of the adequacy of such reserves, as well as a periodical review of the efficiency of the procedures of the fund might well be secured through an independent audit by a consulting actuary--a device utilized by some of the state funds. If volume of business does not warrant the employment of an actuary by the

territorial fund, the fixing of premium rates for the various work classifications might also be supervised by such actuarial consultant.

In the United States exclusive funds have been handicapped by one or all of the following difficulties.⁴⁸

"(1) Dependence upon legislative appropriations for support; (2) complicated procedure and recourse to court appeals; (3) defective or obsolete acts, especially those which deprive the administering agency of freedom to set up classifications and make rates; (4) political turnover of personnel; and (5) inadequate salaries for commissioners and technical employees."

There is nothing in the laws of the Territory, or the pattern observed in the administration of the territorial workmen's compensation act which would engender undue formality or complicated procedure should a territorial exclusive fund be established. The spread of the merit system has tended to eliminate the element of politics in the state fund⁴⁹ and also appears to offer promise of assuring continuity of service, adding emphasis to the recognition of workmen's compensation as a distinct professional specialty.⁵⁰ Reference to the experience and practices of particular state funds on the mainland should permit the creation of a territorial fund with structure and methods designed to overcome these handicaps and to approximate the highest standards set by both private and public workmen's compensation insurance carriers.

⁴⁸Dawson, op. cit., p. 26. Dawson adds: "It would be a mistake to infer, from the account given of the handicaps under which exclusive state funds are operating, that they have not on the whole rendered service as good as that of private insurance carriers." See also criticism of state funds for slowness of payments in Lang, op. cit., pp. 43-46, 65-69.

⁴⁹See Andrews, op. cit., pp. 29-30.

⁵⁰Dawson, op. cit., pp. 30-31.

APPENDIX A

INSURANCE REQUIREMENTS*

Jurisdictions	Compensation compulsory or elective	Insurance provided in--	
		State fund: Exclusive or competitive	Private companies or by self-insurance
Alabama	Elective	.....	Either.
Alaska	Compulsory	.....	Do.
Arizona	Do ¹	Competitive	Either.
Arkansas	Do	.....	Do.
California	Do	Competitive	Do.
Colorado	Elective ²	Do	Do.
Connecticut	Do	.....	Do.
Delaware	Compulsory	.....	Do.
District of Columbia..	Compulsory	.....	Either.
Florida	Elective	.....	Do.
Georgia	Do ²	.....	Do.
Hawaii	Compulsory	.....	Do.
Idaho	Do	Competitive	Do.
Illinois	Do ²	.....	Do.
Indiana	Elective ⁴	.....	Do.
Iowa	Do ⁴	.....	Do.
Kansas	Elective	.....	Either.
Kentucky	Compulsory ⁵	.....	Do.
Louisiana	Elective	.....	Do.
Maine	Do ²	.....	Do.
Maryland	Compulsory ⁵	Competitive	Do.
Massachusetts	Do ⁶	.....	Do.
Michigan	Do ⁷	Competitive	Do.
Minnesota	Compulsory	.....	Either.
Missouri	Elective	.....	Do.
Montana	Do ⁸	Competitive	Do.
Nebraska	Do ⁹	.....	Do.
Nevada	Compulsory ¹⁰	Exclusive	
New Hampshire	Do ¹⁰	.....	Self-insurance.
New Jersey	Elective ²	.....	Either.
New Mexico	Elective	.....	Either.
New York	Compulsory	Competitive	Do.
North Carolina	Elective ²	.....	Do.
North Dakota	Compulsory	Exclusive	
Ohio	Do	Do	Self-insurance.
Oklahoma	Do	Competitive	Either.
Oregon	Elective ²	Exclusive	

INSURANCE REQUIREMENTS* - (cont.)

Jurisdictions	Compensation compulsory or elective	Insurance provided in--	
		State fund: Exclusive or competitive	Private companies or by self-insurance
Pennsylvania	Elective ¹⁰	Competitive	Either.
Puerto Rico	Compulsory	Exclusive	
Rhode Island	Elective	.....	Either.
South Carolina	Do ²	.....	Do.
South Dakota	Do ²	.....	Do.
Tennessee	Do	.....	Do.
Texas	Do ¹¹	.....	Private companies.
Utah	Compulsory	Competitive	Either.
Vermont	Elective	.....	Do.
Virginia	Compulsory	.....	Do.
Washington	Do ¹²	Exclusive	
West Virginia	Elective ²	Do	Self-insurance.
Wisconsin	Compulsory	.....	Either.
Wyoming	Do	Exclusive	
United States:			
Longshoremen's Act.	Compulsory	.....	Either.
Civil Employees ...	Do	13	

¹Elective as to employees.

²Compulsory as to public employees.

³Compulsory as to public employees and hazardous employment only.
Elective as to occupational disease.

⁴Compulsory as to public employees and coal mining.

⁵Compulsory as to hazardous employment only.

⁶Elective as to employers of 3 or less.

⁷Elective as to employers of less than 8.

⁸Compulsory as to public corporations and coal mining.

⁹Under ruling of State Compensation Court, all public employees are subject to act without right to rejection by either employer or employee.

¹⁰Nevada and New Hampshire made compulsory in 1947.

¹¹Compulsory as to motorbus companies.

¹²Compulsory as to hazardous employments only.

¹³By direct appropriation of Congress.

*Source: State Workmen's Compensation Laws as of June 1, 1946. Bull. No. 78, Division of Labor Standards, U.S. Department of Labor. Washington, D.C., June 1946; pp. 4-5; "State Labor Legislation in 1947," Monthly Labor Review. Bureau of Labor Statistics, U. S. Department of Labor. Vol. 65, No. 3, September 1947. p. 284.

APPENDIX B

PROVISIONS RELATING TO ADMINISTRATION EXPENSES OF
WORKMEN'S COMPENSATION DEPARTMENTS - July 1, 1947*

State	System Provided For	Fund or Appropriation	Assessment Provisions		Other Income
			Against Whom	Amount	
Arizona	Competitive Fund.	Commission salaries by State; other salaries and expenses by Fund.	Carriers and Self-Insurers.	2 percent of premiums, with minimum of \$250 for Self-Insurance	
California	Competitive Fund.	General Appropriation.	No provision.	Fund pays premium taxes levied on private insurance companies (2.6 percent).	Fees for records, etc.
Colorado	Competitive Fund.	General Appropriation.	State Fund, Carriers and Self-Insurers.	0.5 percent of premiums. ¹	
Idaho	Competitive Fund.	Industrial Administration Fund.	State Fund, Carriers and Self-Insurers.	1 percent of premium.	Fees for records, etc.
Maryland	Competitive Fund.	General Appropriation.	State Fund, Carriers and Self-Insurers.	Prorated; limit against Carriers and Self-Insurers \$120,000.	
Michigan	Competitive Fund.	General Appropriation.	No provision.		
Montana	Competitive Fund.	Industrial Administration Fund; Appropriation and Fees.	No provision.		Graduated inspection fees; also fees for records, etc.
Nevada	Exclusive Fund.	State Insurance Fund.	No provision.		
New York	Competitive Fund.	Department of Labor.	State Fund, Carriers and Self-Insurers.	Total amount prorated on basis of compensation payments.	

PROVISIONS RELATING TO ADMINISTRATION EXPENSES OF
WORKMEN'S COMPENSATION DEPARTMENTS - July 1, 1947*- (cont.)

State	System Provided For	Fund or Appropriation	Assessment Provisions		Other Income
			Against Whom	Amount	
North Dakota	Exclusive Fund.	Workmen's Compensation Fund.	No provision.		
Ohio	Exclusive Fund.	General Appropriation.	No provision.		
Oklahoma	Competitive Fund.	Insurance Fund and General Appropriation.	No provision.		
Oregon	Exclusive Fund.	Industrial Accident Fund. ²	No provision.		
Pennsylvania	Competitive Fund.	General Appropriation.	No provision.		
Utah	Competitive Fund.	General Appropriation.	Fund and Carriers.	1½ percent of gross premiums.	
Washington	Exclusive Fund.	Administration Fund.	No provision.		
West Virginia	Exclusive Fund.	Workmen's Compensation Fund.	No provision.		
Wyoming	Exclusive Fund.	Industrial Accident Fund; Court Administration.	No provision.		

¹Annual collection over \$20,000 goes to General Fund.

²Shall not exceed 12½ percent of the receipts of the Industrial Accident Fund.

*Source: "Analysis of Provisions of Workmen's Compensation Laws and Discussion of Coverages." Insurance Department, Chamber of Commerce of the United States. Washington, D.C., July 1, 1947. Chart X.

APPENDIX C

WORKMEN'S COMPENSATION TRANSACTED IN THE TERRITORY OF HAWAII*

Date	Premiums	Losses
1915	\$ 71,975.91	\$ 1,805.06
1916	101,485.89	18,752.87
1917	126,738.97	30,495.86
1918	166,499.77	57,010.49
1919	152,670.52	52,926.26
1920	239,360.99	90,202.79
1921	294,161.93	99,562.77
1922	200,042.85	118,711.06
1923	241,594.81	127,145.55
1924	294,908.76	175,029.74
1925	362,533.12	177,391.63
1926	349,097.31	189,657.64
1927	465,227.14	145,175.19
1928	388,423.84	201,553.39
1929	444,673.64	202,241.37
1930	399,743.24	209,303.86
1931	419,313.17	233,778.74
1932	353,568.40	225,263.93
1933	360,029.08	218,897.08
1934	397,828.75	198,480.98
1935	454,201.40	236,927.51
1936	499,177.42	221,021.12
1937	566,960.55	234,928.55
1938	662,752.12	249,921.33
1939	734,333.45	270,560.60
1940	936,452.51	331,793.79
1941	1,629,159.01	516,085.43
1942	3,824,196.72	1,087,879.24
1943	1,772,044.15 ¹	1,202,366.94
1944	2,324,138.96	809,301.41
1945	2,260,338.38	767,731.53
1946	1,903,693.16	727,766.26
Total	\$23,397,325.92	\$9,429,669.97

¹ For the year 1943 Liberty Mutual processed net premiums totalled \$836,694.71; however, the sum of \$1,235,000 was estimated to be refundable, under retrospective rate plans, from premiums reported during the years 1942 and 1943. Since no accrual of any part of the \$1,235,000 was reported by the company for the year 1942, the whole of that sum is included as a deduction for 1943. As a result, net premiums were shown as a minus \$398,305.29.

* Source: Annual Reports of the Territorial Insurance Commissioner.

