A REPORT TO THE LEGISLATIVE COUNCIL
AND
THE SENATE and HOUSE INTERIM COMMITTEES
ON INSURANCE AND COMMERCE
OF
THE ARKANSAS GENERAL ASSEMBLY
(AS REQUIRED BY ACT 1143 OF 1997)

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Lenita Blasingame, Deputy Commissioner
Arkansas Insurance Department

Date Submitted: September 22, 2000

Previous reports to the Legislature have discussed in great detail the condition of Arkansas's Workers' Compensation marketplace prior to the passage of Act 796 in 1993 and the subsequent changes brought about as a result of Act 796. This report will not attempt to again detail that history. However, previous reports are included as Exhibit 3 to this report to provide historical perspective. Suffice it to say Arkansas continues to enjoy the most competitive workers' compensation market with the lowest premium levels in decades. The market as we enter the 21st Century continues to be conducive to business growth, which should mean better jobs and better wages for Arkansas citizens.

CONTINUED RATE IMPACT OF ACT 796 OF 1993

Arkansas's voluntary workers' compensation market would have disappeared and many employers would have found themselves unable to afford workers' compensation coverage, facing the choice of either closing down their business or operating outside the law had the changes incorporated into Act 796 not become reality.

The impact of Act 796 of 1993 on workers' compensation premiums has been clear and significant. Prior to its enactment, premium rates were increasing significantly. For example, for both the voluntary market and the assigned risk plan, rates in 1991 and 1992 increased 15% and 18% respectively. Passage of the act forestalled anticipated rate increases in 1993 and 1994, with 1993 being the first year in the last ten in which there was no rate increase. 1993 and 1994 were years of market stabilization and subsequent years have seen significant rate reductions in both the voluntary market and the assigned risk plan.

Year	Voluntary Market	Assigned Risk Plan
1993	-0-	-0-
1994	-0-	-0-
1995	-12.4%	-12.4%
1996	-8.0%	-3.7%
1997	-4.7%	-7.6%

Year	Voluntary Market	Assigned Risk Plan
1998	-9.1%	-8.2%
1999	-4.1%	-3.0%
2000	-4.5%	-2.0%

INCREASING PAYROLL AND DECREASING EXPERIENCE MODIFIER

Reported payroll in Arkansas has continued to increase and the net premium for insureds has continued to decrease during this same time period. Further reducing the total premium paid by insureds, the average experience modifier has also decreased. This decrease in experience modifier could well represent the implementation of more effective loss control measures and the impact of the Hazardous Employer Program operated by the Health and Safety Division of the Workers' Compensation Commission.

CONTINUED DEPOPULATION OF ASSIGNED RISK PLAN

The assigned risk plan has seen a consistent history of decline in population. Down from a record high premium volume of $150,000,000 in 1993, as of July 1998, there were 6,372 risks in the Assigned Risk Plan and the premium volume was approximately $16,282,000. Additional drops in population and premium volume continued throughout 1999. By April 2000, aggressive depopulation efforts by insurers and agents had reduced the Plan premium to slightly more than $7,000,000. For those employers qualifying for voluntary coverage, cost savings can be substantial. In addition, according to the National Council on Compensation Insurance ("NCCI"), price discounting by voluntary carriers has reached record levels, averaging –22% during 1998, further lowering the cost for employers.

Attached as Exhibit 1 is a chart prepared by the NCCI which reflects the average monthly plan premium volume. NOTE: *The $6,416,816 figure appearing in July 1999 was the result of* *delayed reporting by a large insurer and is not representative of the premium volume at that time.*

PLAN ADMINISTRATION/SERVICING CARRIERS

As earlier reports pointed out, many of the Plan problems and agent/insurer complaints were the result of the failure of the Plan Administrator (NCCI), to carefully monitor plan activity and promptly respond to requests for assistance by agents/insureds. The NCCI is an "Advisory Organization" licensed in Arkansas to assist its member insurers with respect to rate making and data collection activities. The Department continues to work closely with NCCI to correct service related problems. The location of an office in Little Rock (mandated by 1993 legislation) has resolved many of the service problems and given Arkansas agents and insureds easy, immediate access to responsive company personnel. The effectiveness of this office can be measured in the reduction of the number of complaints received by the Insurance Department and the reduced number of appeals which ultimately reach the Appeals Board. The one (1) full-time employee and the one (1) part-time employee of the office are knowledgeable and committed to providing excellent service.

Effective January 1, 1998, the Commissioner re-appointed NCCI as Administrator for the Arkansas Assigned Risk Plan until at least July 1, 2001.

Attached as Exhibit 2 is a report entitled **Arkansas 1999 Residual Market Annual Report** prepared by the NCCI containing, among other things, detailed information on risk profiles such as average premium size, top ten classifications by code and by premium and a list of contacts within NCCI for specific areas of concern.

NCCI has also implemented a program which allows at no charge to the agent the option to submit assigned risk applications online. Upon successful submission this allows the customer to immediately receive a confirmation code and application identification number for reference.

Arkansas will re-bid for Assigned Risk Plan servicing carriers effective January 1, 2001. NCCI administers all of the functions necessary to properly select bid winner(s) from a group of proposals. For the January 1, 1998-December 31, 2000 time frame, Arkansas had three servicing carriers. However, during the term of the contract one servicing carrier, Commercial Union, asked to be relieved of its contractual responsibility in all states in which it had been selected. The small market volume in Arkansas made it possible for the remaining two servicing carriers to absorb the assignments of the third carrier with no disruption in service to insureds. With the reduced volume, it is anticipated that not more than two (2) servicing carriers will be selected for the period beginning January 1, 2001.

The Annual Servicing Carrier Performance Review conducted by NCCI reveals either “Commendable” or “Satisfactory” scores for all areas for Arkansas’ servicing carriers.

SUMMARY OF INSURANCE DEPARTMENT'S FRAUD INVESTIGATION UNIT

Before the passage of Act 796 of 1993, there had never been a criminal prosecution in Arkansas for workers' compensation fraud committed by employees, employers or healthcare providers. Act 796 created the Workers' Compensation Fraud Investigation Unit and made any type of fraud committed within the workers' compensation system a Class D felony (maximum 6 years and/or $10,000 fine).

Fraud in the workers' compensation system was perceived to be epidemic. Since the majority of employers were in the "Plan," there was little, if any, incentive for thorough investigation of possibly fraudulent insurance claims and few consequences to those caught making intentional misrepresentations. Act 796 changed the entire landscape of the workers' compensation system, particularly in regard to the detection and prevention of workers' compensation fraud.

The cases represented by the statistics noted below, which are comparable per capita to those of other states with active anti-fraud efforts, are believed to have had a significant impact on workers' compensation rates in Arkansas and the deterrent factor has been substantial.

Referrals to the Workers' Compensation Fraud Investigation Unit have been reduced by approximately 75% since its first year of operation. As anticipated, the number of referrals received per year has leveled out at approximately 100. It will be important that the Unit's work continues since any lessening of the anti-fraud effort would most likely result in a re-emergence of fraud committed by employees, employers, and healthcare providers.

Workers' Compensation Fraud Investigation Unit Activity Report

	9/1/99 - 8/31/00	Unit Totals (Since 10/93)
Referrals Received	**095**	**1,403**
Employee	077	1,052
Employer	016	288
Third Party	002	063
Cases Referred for Prosecution By Legal Section	**009**	**135**
Employee	009	109
Employer	000	014
Third Party	000	012
Prosecutions Won	**008**	**085**
Employee	007	063
Employer	000	013
Third Party	001	009
Prosecutions Lost	**000**	**003**
Employee	000	003
Employer	000	000
Third Party	000	000

	9/1/99 - 8/31/00	Unit Totals (Since 10/93)
Fines/Cost	**$3,675.00**	**$144,417.34**
Restitution	**$40,476.96**	**$332,953.40**

RECENT COURT DECISIONS

In our report to you last year we identified a number of cases which may adversely impact the cost of workers' compensation coverage in Arkansas and may very well undermine the 1993 reform legislation. Because of the significance of these decisions, I feel it is important to again discuss some of these findings. Three (3) Arkansas Supreme Court cases and three (3) Court of Appeals cases especially come to mind.

A. Arkansas Supreme Court Decisions

1. Golden v. Westark Community College, 333 Ark. 41, issued 4-30-98.

   This decision struck down the Social Security offset contained in Act 796 of 1993 as unconstitutional. Ark. Code Ann. § 11-9-522(f) provided that benefits for permanent disability would be offset by any Social Security retirement benefits received. The Arkansas Court of Appeals and the Workers' Compensation Commission had previously ruled this provision to be constitutional. The Arkansas Supreme Court, in declaring this statute unconstitutional, acknowledged that Kansas, Maine, Massachusetts, Montana, Tennessee and Washington had found such an offset constitutional, while only Colorado and West Virginia had ruled the provision to be unconstitutional. Even though the states were divided on this issue, the Arkansas Supreme Court, in a unanimous decision, chose to follow what is presently the minority view.

2. Kildow v. Baldwin Piano and Organ, 333 Ark. 335, issued 5-21-98; Petition for Rehearing denied on 6/25/1998.

Prior to the decision in this case, virtually all legal authorities had concluded that in gradual onset of Carpal Tunnel Syndrome cases, an employee must prove that the Carpal Tunnel Syndrome injury was caused by rapid and repetitive motion. Both the Workers' Compensation Commission and the Arkansas Court of Appeals found the claimant must prove that the injury was caused by rapid and repetitive motion before the claimant was entitled to recovery. The Arkansas Supreme Court reversed the Workers' Compensation Commission and the Arkansas Court of Appeals' decision and held that it was not necessary to prove rapid repetitive motion for claims involving carpal tunnel syndrome.

3. Davis v. Old Dominion Freight Lines, Inc., 341 Ark. 751, ___ S.W.3d___(2000)

The claimant sustained a compensable right ankle injury. While recovering he aggravated the surgical repair when he stepped awkwardly on his ankle to avoid stepping on his two-year-old niece. The treating surgeon noted that the incident disrupted the prior surgical process. The workers’ compensation carrier denied benefits for the incident involving claimant’s niece as an independent intervening cause. A hearing was held and the Administrative Law Judge denied further benefits based on the independent intervening cause. The Workers’ Compensation Commission affirmed the Administrative Law Judge’s decision. The Court of Appeals reversed, citing the cases of Georgia-Pacific Corp. v. Carter, 62 Ark. App. 162, 969 S.W.2d 677 (1998), and Guidry v. J. & R. Eads Constr. Co., 11 Ark. App. 219, 669 S.W.2d 483 (1983), and holding that the provisions of Act 796 of 1993 did not change the relevant analysis of independent intervening cause. The Arkansas Supreme Court affirmed the Court of Appeals decision on June 29, 2000.

As you know, Act 796 of 1993 added the following language to the statute:

> Under this subdivision (5)(F), benefits shall not be payable for a condition which results from a nonwork-related independent intervening cause following a compensable injury which causes or prolongs disability or a need for treatment. A nonwork-related independent intervening cause does not require negligence or recklessness on the part of a claimant."

Ark. Code Ann. § 11-9-102(5)(F)(iii).

Prior to enactment of Act 796 of 1993, the law regarding independent intervening cause was based on case law. In Guidry v. J. & R. Eads Const. Co., the Arkansas Court of Appeals had held that an "independent intervening cause" had to be the result of unreasonable conduct on the part of the claimant, but did not require negligence or recklessness on the part of a claimant. Applying strict construction to the statute, the claimant in this case suffered a nonwork related intervening cause following a compensable injury which caused or prolonged disability or a need for treatment. The Courts have reinstituted the additional requirement that the claimant's conduct which brought about the second incident must be unreasonable in order for it to qualify as an "independent intervening cause."

B. Arkansas Court of Appeals Decision

1. Clark v. Sbarro, Inc., 67 Ark. App. 372, 8 S.W.3d 36, issued 1999; Petition for Rehearing denied on 12/22/1999.

In this case the Court of Appeals appears to have broadened the law with regard to whether rebuttable presumption is overcome when alcohol is found to be present at the time of an injury. The claimant died in a 2 vehicle accident in which the claimant as well as the other driver had blood alcohol levels in excess of .20%. In this case the court disagreed with the AWCC finding that claimant's BAW of 21% and the likely resulting impaired judgment and apparent speeding substantially occasioned the accident. The C of A was more persuaded by the fact that the other driver crossed the center line and that this should be considered the direct cause of the accident, not the use of alcohol and the evident intoxication of the claimant.

2. <u>Gudron Ray v. University of Arkansas</u>, 66 Ark. App. 177, 990 S.W.2d 558, issued 1999; Petition for Rehearing denied 5/26/1999; Petition for Review denied 6/10/1999.

Claimant was a cafeteria worker who was injured while on a break from her duties. She was serving herself some food from the salad bar in that cafeteria when she fell after slipping on some food that was on the floor. Ark. Code Ann § 11-9-102(5)(B)(iii) states that a compensable injury does not include "injury which was inflicted upon the employee at a time when employment services were not being performed…" Although the Full Commission ruled that claimant was not performing employment services, the Court of Appeals held that the employer gleaned benefit from the claimant's being present during her break by requirement that she leave her break if a student needed her assistance, and thus, injury occurred within the course of employment and was compensable. This case certainly blurred the line for determining when a claimant is actually performing employment services.

3. Oak Grove Lumber Company v. Highfill, 62 Ark. App. 42, 968 S.W.2d 637, issued 5-6-98; Petition for Review denied 6/25/1998.

This case involved a worker originally dropping a sledgehammer on his right foot at work. He was immediately treated and diagnosed with a nondisplaced fracture of the right foot. The claimant soon returned to work after the accident. After working a few days, the claimant took off to attend a church outing, and while on that outing walked or tripped on a tree root, which resulted in a displaced fracture of the right foot. The physician testified that the second fracture did not follow as a natural progression in the course of events of the facts stated. The issue in this case was whether a second incident, occurring away from work, is a natural consequence of the original compensable injury, or whether the second incident constituted an independent intervening cause. The Arkansas Workers' Compensation Commission ruled in favor of the claimant, and the majority of the Court of Appeals affirmed. The dissenting Justices wrote that the decision was a blatant example of judicial legislation and flies in the face of the public policy as declared by the Legislature.

These and other decisions are troubling because they appear to signal that our courts may be heading back in the direction of judicial legislation, which, among other things, was the reason for the passage of Act 796 of 1993.

1999 LEGISLATIVE ACTIVITY WITH REGARD TO WORKERS' COMPENSATION

Act 1552 of 1999 provides a premium credit for employers who implement and maintain a drug-free workplace program in accordance with guidelines developed by the Arkansas Workers' Compensation Commission. The Commission has developed Rule 36, Voluntary Program for Drug-Free Workplaces and the Insurance Department has approved a filing by NCCI which outlines the guidelines for the implementation of the credit and establishes a minimum credit of at least 5%. Available to policyholders whose policy renews on or after January 1, 2000, this credit will be applied at audit to employers who have maintained the drug free workplace throughout the policy period. The Commission as of 9/1/2000 has 34 employers, covering a total of 4700 employees who have had their Drug Free Workplace Programs approved. The Commission will monitor the results of this program to determine its effectiveness.

FUTURE PROJECTIONS

While Arkansas has seen slight increases in the average medical cost per lost time claim, Arkansas's market remains strong and competitive. The attached State of the Industry report graphically depicts the sound condition of Arkansas' marketplace. Surrounding states have not been quite so fortunate with Mississippi, Oklahoma and Tennessee all experiencing filings for 1999/2000 that included rate increases.

NCCI has warned that workers' compensation results countrywide are deteriorating and they project the 1999 Accident Year combined ratio to be 134.6%, producing a negative outlook for workers' compensation profitability in 1999. In reporting the data, NCCI pointed to a number of factors that are having a negative impact on the market. Among these are:

- Excess capacity driving a very competitive pricing environment

- Rapid increase in surplus and invested assets- limiting returns on surplus
- Assigned risk applications submitted to NCCI for coverage have increased over 10% from the first quarter of 1999 to the first quarter of 2000
- Claim costs that are beginning to rise at more rapid rates than in previous years
- Pending proposals for benefit increases
- Challenges to workers' compensation as an exclusive worker remedy for workplace injury
- Recent federal initiatives that threaten to increase claim costs, broaden compensability definitions and could create duplicate remedies
- Reform roll-back proposals in 2001 state legislative sessions

NCCI did point out one favorable development among the negatives. The incidence of workplace injuries has fallen sharply for the last 10 years, a decline of about 24% since 1990. This means 24% fewer injured workers – the most valuable outcome imaginable for workers and their families, as well as for employers.

CONCLUSION

Absent the reforms encompassed in Act 796 of 1993, it is doubtful Arkansas insureds would now have the option of voluntary workers' compensation insurance. Rather, the Assigned Risk Plan, designed to be a market of "last resort", would most likely have become Arkansas's market of "only resort". The General Assembly is to be highly commended for their leadership in reforming the workers' compensation market in our State while protecting the interests of the injured worker.

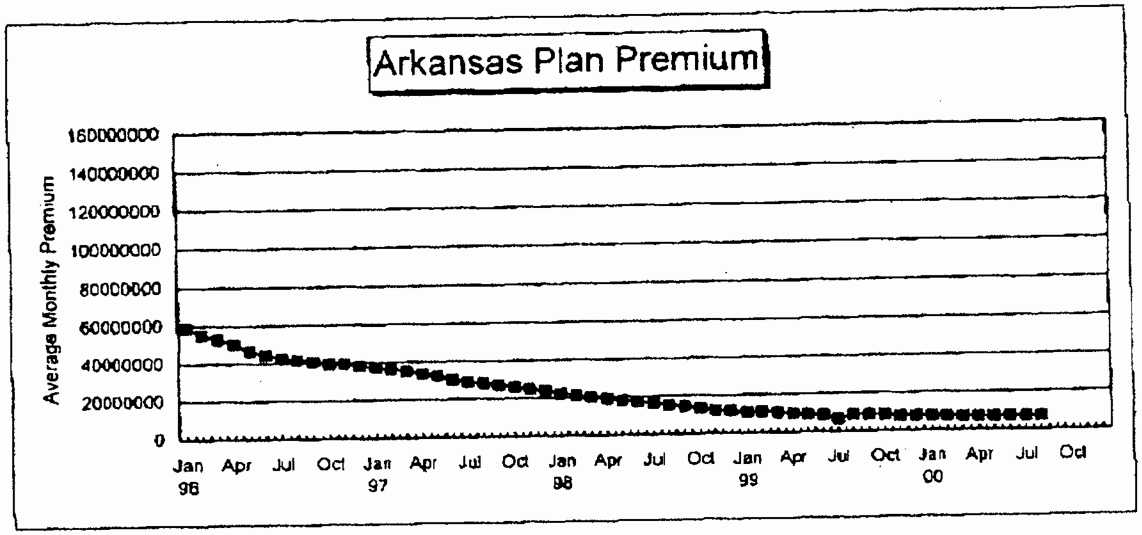
The attached State of the Industry Report prepared by NCCI graphically presents the state of Arkansas's workers' compensation marketplace. Arkansas employers must have available to them quality workers' compensation products in the voluntary market, at affordable prices. The creation of good jobs requires a marketplace where all businesses, regardless of size, can grow. Maintaining a stable workers' compensation system is essential for this growth. There is no question the reforms have worked. The incidence of fraud has been reduced through high-profile fraud prosecutions, employee compensation rates and benefits have been increased and workers truly injured within the course and scope of their employment have received timely medical treatment and the payment of workers' compensation indemnity benefits. If Arkansas is to be prepared for true economic growth in the 21st century, it would be counter-productive to allow special interests to put their agenda ahead of those injured workers and insurance consumers by eroding the positive changes incorporated into Act 796.

cc: Governor Mike Huckabee
Chairman Eldon Coffman, AWCC
Commissioner Pat West Humphrey, AWCC
Commissioner Mike Wilson, AWCC
Ms. Julie Bowman, Chief Executive Officer, AWCC
Ms. Lenita Blasingame, Deputy Commissioner, AID
Mr. Marty Nevrla, Insurance Fraud Investigation Division Director, AID

Post-it® Fax Note 7671

Date 9-6	# of pages ▶ 1		
To Carol Stittler		From Cathy Booth	
Co./Dept.		Co.	
Phone #		Phone #	
Fax # 501-371-2748		Fax #	

EXHIBIT 1



AVERAGE PLAN PREMIUM

	1996	1997	1998	1999	2000
JANUARY	58,582,000	37,056,000	21,845,000	10,814,378	7,490,104
FEBRUARY	55,074,000	36,055,000	20,813,000	10,847,741	7,278,811
MARCH	52,661,000	34,909,000	19,669,000	10,234,352	7,185,102
APRIL	50,019,000	33,434,000	18,985,000	9,711,971	7,100,055
MAY	46,430,000	32,386,000	17,947,000	9,204,227	7,011,318
JUNE	44,207,000	30,218,000	17,126,000	8,794,174	7,068,534
JULY	42,301,000	28,795,000	16,282,000	6,416,819	6,934,167
AUGUST	41,600,000	28,142,000	15,231,000	8,616,124	6,715,227
SEPTEMBER	40,439,000	27,005,000	14,388,000	8,535,847	
OCTOBER	39,315,000	25,786,000	13,079,000	8,344,029	
NOVEMBER	39,179,000	24,706,000	12,082,000	7,952,783	
DECEMBER	38,021,000	23,505,000	11,823,000	7,791,221	

The Plan Premium figures above represent the average size of the residual market in Arkansas as of the month stated. These figures are 12 month rolling totals based on policies reported to NCCI by Servicing Carriers. They include assignments less than 120 days old that have not yet been reported as policies and a percentage of recently expired policies that NCCI expects to be renewed. These totals are net of cancelations and include any additional premium due to policy endorsements.

EXHIBIT
2

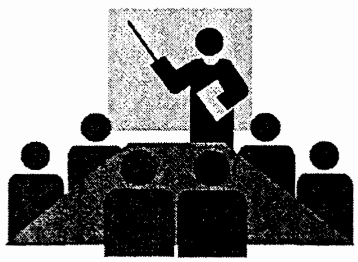
ARKANSAS
WORKERS COMPENSATION ROUNDTABLE

MARCH 16, 2000

The Hearing Room

Arkansas Insurance Department

Little Rock, Arkansas



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ARKANSAS WORKERS COMPENSATION ROUNDTABLE AGENDA

❦	11:30 am	Working Lunch, Welcome	
❦	11:40 am	Opening Comments	Cathy Booth, NCCI
❦	11:45 am	The State of the Line	
		The State of Arkansas Workers Compensation	Tom Daley, NCCI
❦	12:15 pm	Breakout Session	
❦	12:45 pm	Breakout Session Feed Back	
❦	1:15 pm	Closing Remarks	Cathy Booth

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State of the Industry

NCCI

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Premium Volume by Line

Line of Business	1998	1999p	Change
Personal Auto	$117.3 B	$120.3 B	2.6 %
Homeowners	29.0	31.4	8.4
Workers Compensation	23.3	23.0	-1.3
Commercial Multiple Peril	19.0	19.2	1.4
Other Liability	19.0	18.0	-5.6
Commercial Auto	18.1	18.3	1.3
Fire & Allied Lines	9.0	9.5	5.5
Total All Lines	$281.6 B	$288.0 B	2.3 %

p Preliminary - Countrywide Private Carrier

Source for lines other than Workers Compensation:
Best's Aggregates & Averages, Property/Casualty, 1999 Edition and
Best's Review Preview, Property/Casualty, January 2000

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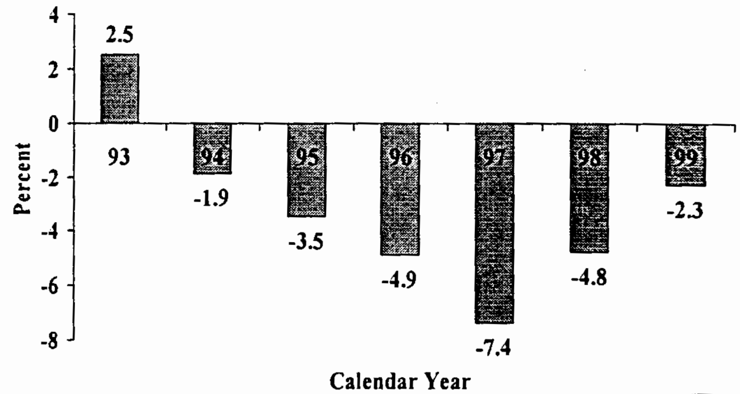
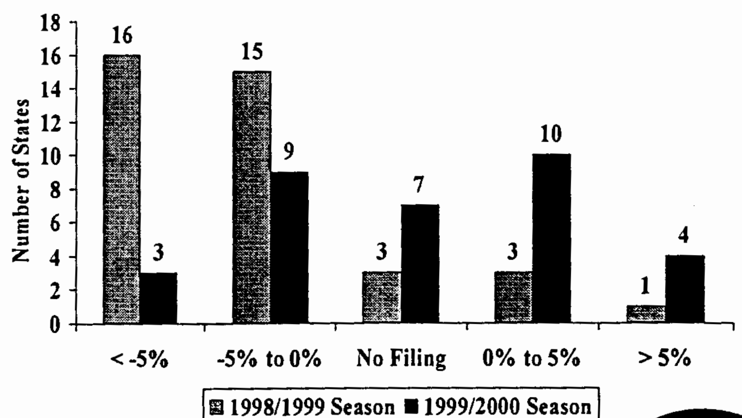
Average Rate/Loss Cost Changes Countrywide



Countrywide approved changes in advisory rates, loss costs and assigned risk rates as filed by the applicable rating organization.

NCCI Filing Activity



Includes filed amount in states not yet approved.

1999/2000 Filing Activity
Neighboring States [1]

	Amount Approved	Effective Date
◆Louisiana	No Filing	
◆Mississippi (VPP)	No Filing	
◆Mississippi (ARR)	+ 4.0%	3/1/2000
◆Missouri (VPP) [2]	- 2.0%	1/1/2000
◆Oklahoma (VPP) [3]	+ 5.0%	12/1/1999
◆Tennessee (VPP)	+ 7.0%	3/1/2000
◆Tennessee (ARR)	+18.7%	3/1/2000

1. NCCI doesn't file rates for Texas.
2. Travelers is the assigned risk plan administrator for Missouri.
3. Oklahoma State Fund covers assigned risks.

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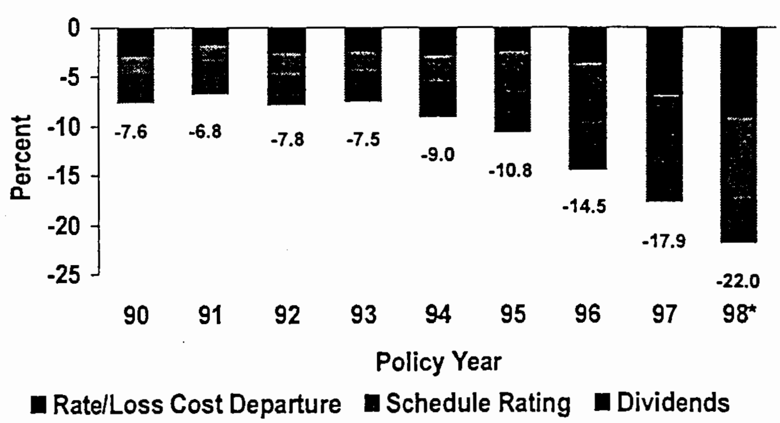
Price Discounting Has Reached Record Levels
NCCI States - Private Carriers



* Preliminary
Based on data through 12/31/98 for the 37 states where NCCI provides ratemaking services.
Dividend ratios are based on calendar year statistics.

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Combined Ratios by Line

Countrywide - Net - Private Carriers

Line of Business	1997	1998	1999p	Avg.
Personal Auto	99 %	101 %	103 %	101 %
Homeowners	101	109	109	106
Workers Compensation	101	108	115	108
Commercial Multiple Peril	111	120	123	118
Other Liability	111	115	118	114
Commercial Auto	111	114	115	113
Fire & Allied Lines	93	107	101	100
Total All Lines	102 %	106 %	108 %	105 %

p Preliminary

NCCI

Source for lines other than Workers Compensation.
Best's Aggregates & Averages, Property/Casualty, 1999 Edition and
Best's Review Preview, Property/Casualty, January 2000
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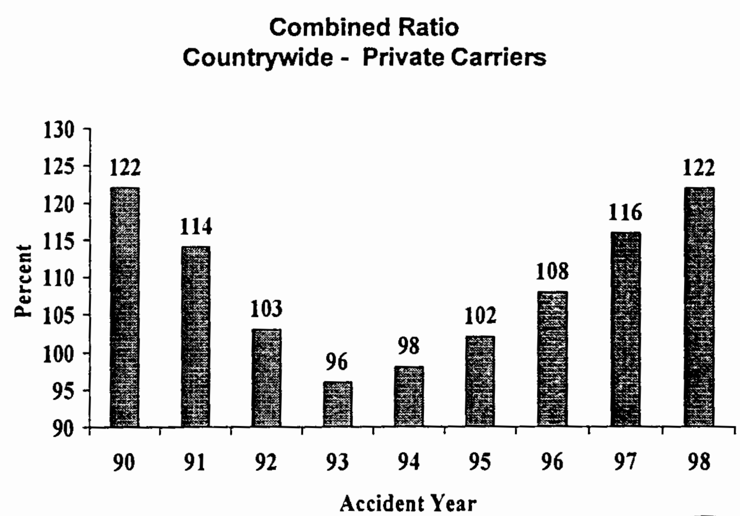

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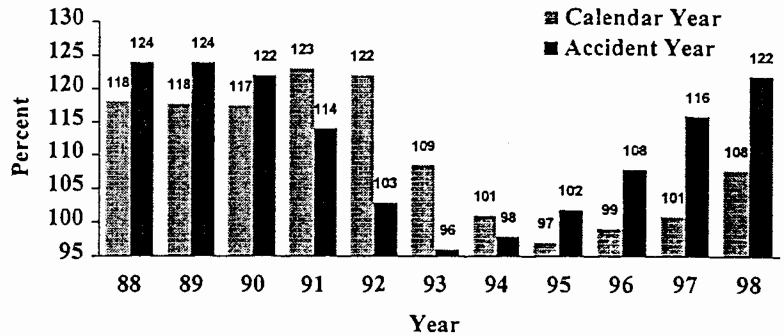
Combined Ratio
Calendar Year vs. Ultimate Accident Year

Countrywide — Private Carriers



NCCI

Includes dividends to policyholders
Accident year is developed to ultimate

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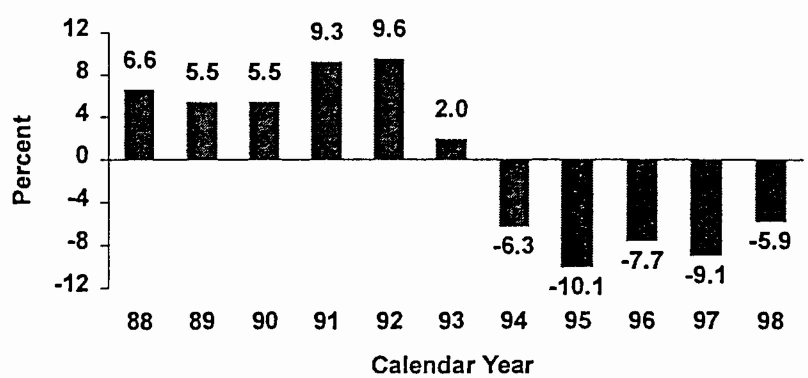
Impact of Prior Year Reserve Adjustments
Countrywide - Net - Private Carriers



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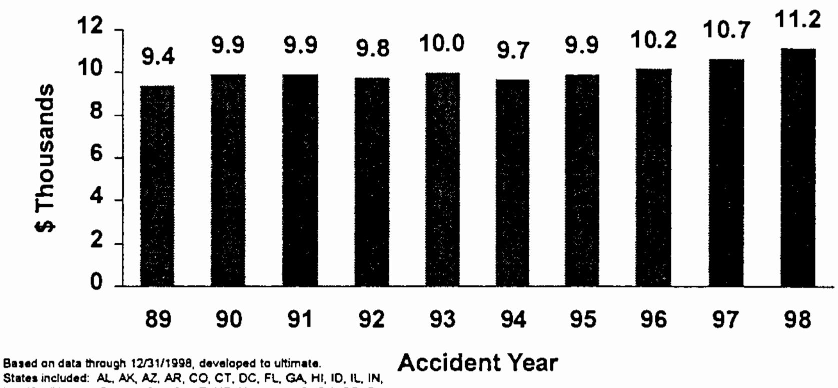
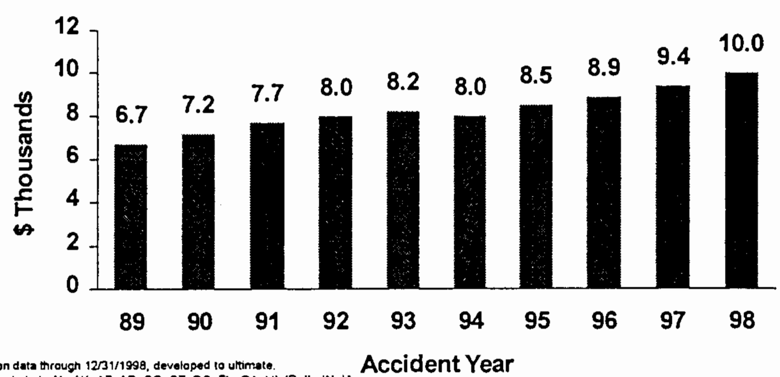
Average Indemnity Cost Per Lost Time Claim



Based on data through 12/31/1998, developed to ultimate.
States included: AL, AK, AZ, AR, CO, CT, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MS, MO, MT, NE, NH, NM, NC, OK, OR, RI, SC, SD, TN, UT, VT, VA, and WI.
Excludes the effects of deductible policies.

NCCI

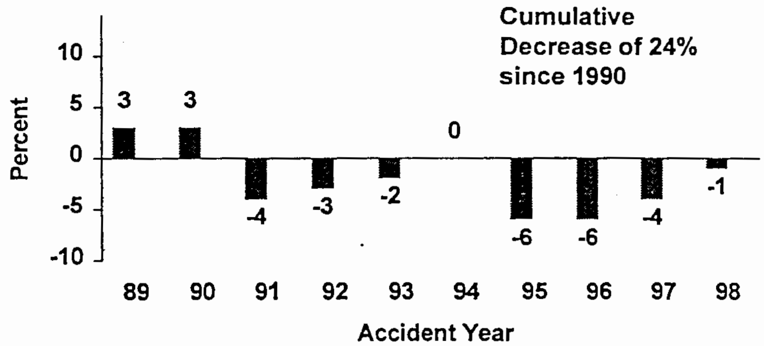
Average Medical Cost Per Lost Time Claim



Based on data through 12/31/1998, developed to ultimate.
States included: AL, AK, AZ, AR, CO, CT, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MS, MO, MT, NE, NH, NM, NC, OK, OR, RI, SC, SD, TN, UT, VT, VA, and WI.
Excludes the effects of deductible policies.

NCCI

Annual Change In Lost Time Claim Frequency Per Worker



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States included: AL, AK, AZ, AR, CO, CT, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MS, MO, MT, NE, NH, NM, NC, OK, OR, RI, SC, SD, TN, UT, VT, VA, and WI.
Excludes the effects of deductible policies.

NCCI

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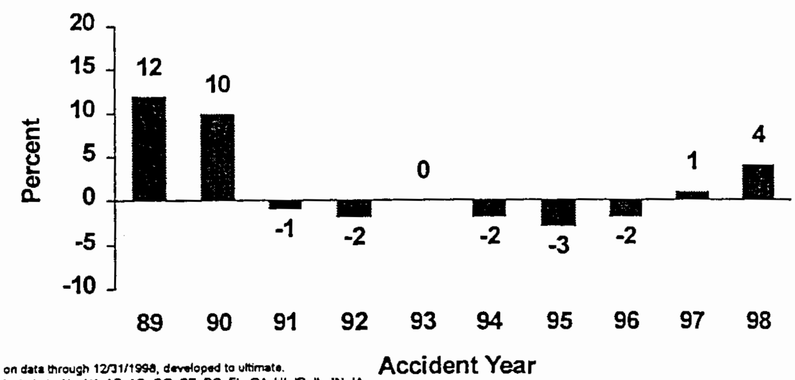
Annual Change In Lost Time Claim Costs Per Worker



Based on data through 12/31/1998, developed to ultimate.
States included: AL, AK, AZ, AR, CO, CT, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MS, MO, MT, NE, NH, NM, NC, OK, OR, RI, SC, SD, TN, UT, VT, VA, and WI.
Excludes the effects of deductible policies.

NCCI

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Arkansas Workers Compensation System Results

NCCI

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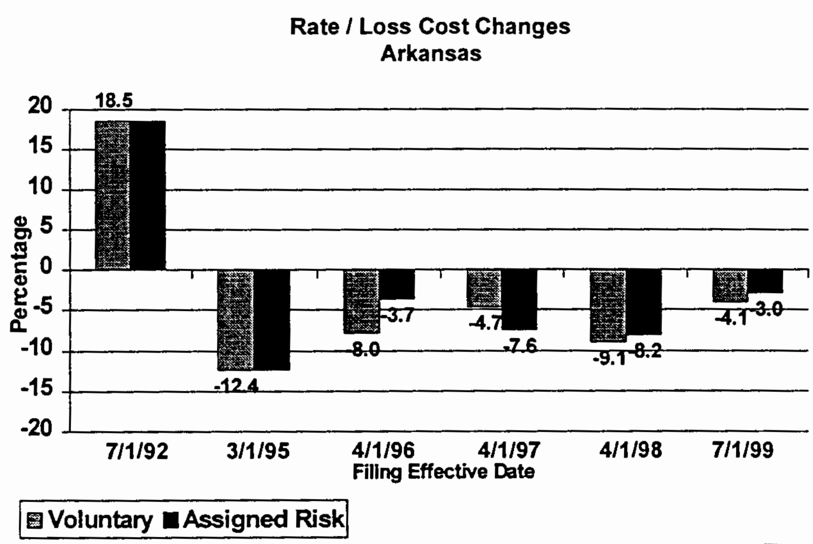

Arkansas has reduced loss costs 30% since 1995. No changes between 1992 and 1995.

NCCI

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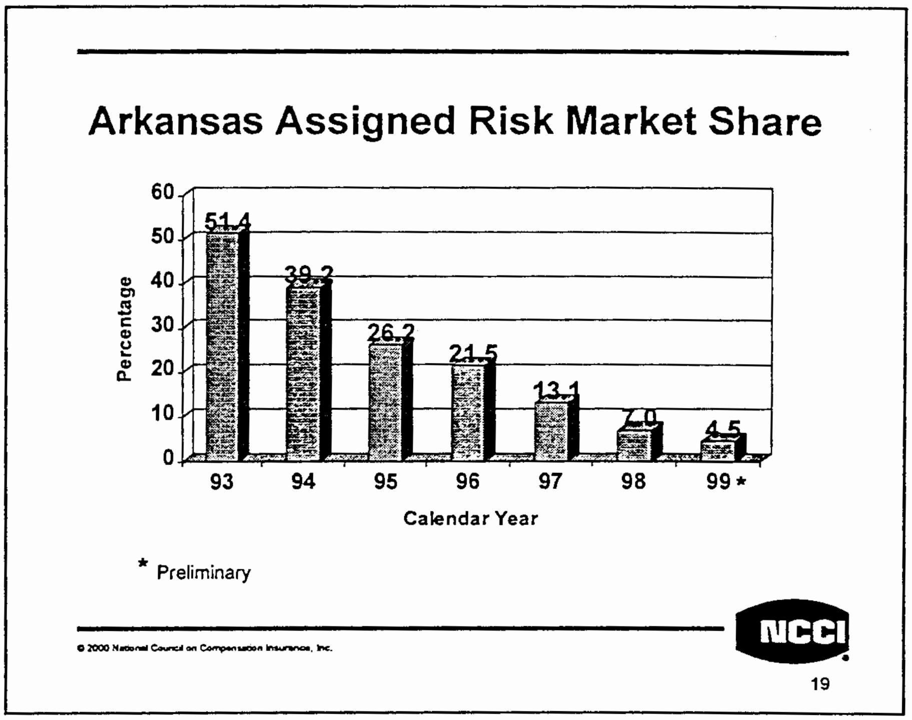

Arkansas Assigned Risk Market Share
60
50
40
30
20
10
0
Percentage
51.4
39.2
26.2
21.5
13.1
7.0
4.5
93
94
95
96
97
98
99 *
Calendar Year
* Preliminary
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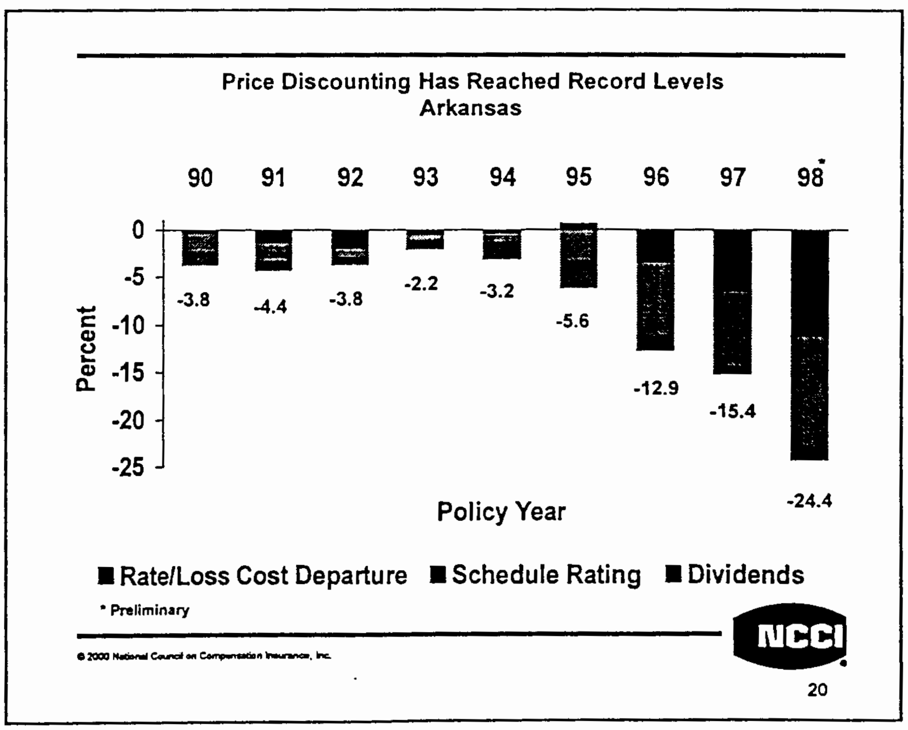

Price Discounting Has Reached Record Levels
Arkansas
90
91
92
93
94
95
96
97
98*
0
-5
-10
-15
-20
-25
Percent
-3.8
-4.4
-3.8
-2.2
-3.2
-5.6
-12.9
-15.4
-24.4
Policy Year
Rate/Loss Cost Departure
Schedule Rating
Dividends
* Preliminary
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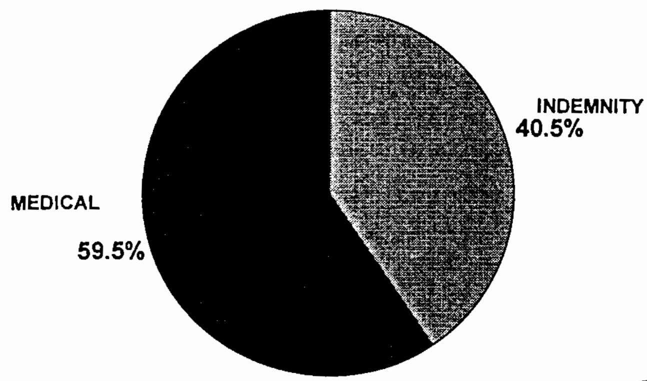
Arkansas Distribution of Benefits



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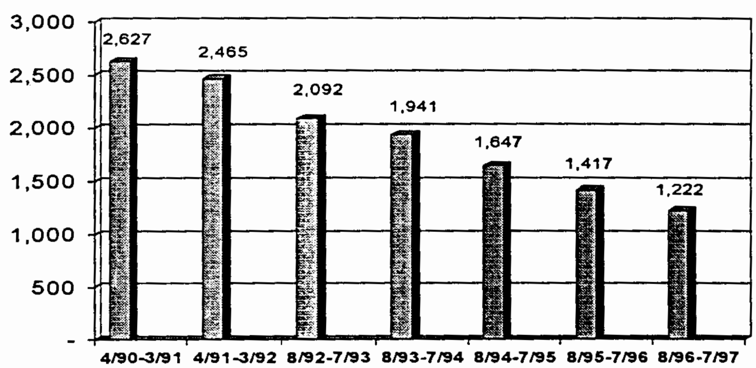
Arkansas Claim Frequency of Lost Time Claims

per 100,000 Workers



Source: Workers Comp Stat Plan Data.
Policy period was shifted so more recent data is used for ratemaking.

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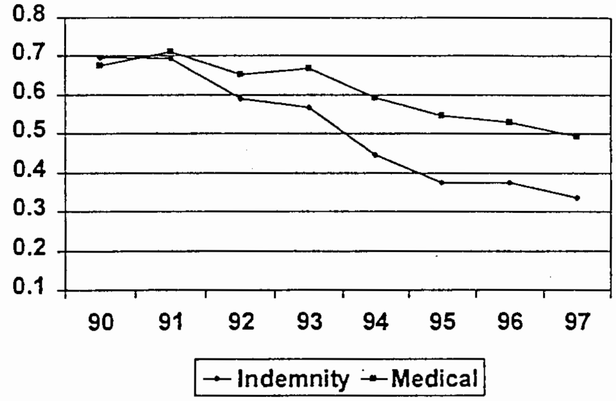
Arkansas Loss Ratios



Source: Financial Data as of 12/31/1998

NCCI

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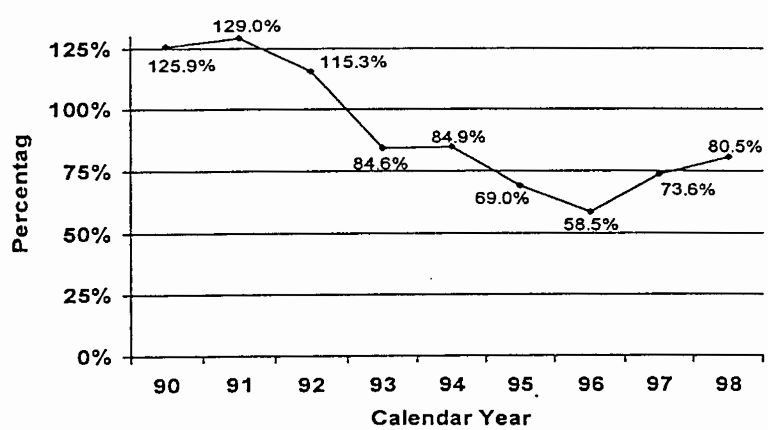
Arkansas Combined Ratios



Source: NAIC Page 15 Data

NCCI

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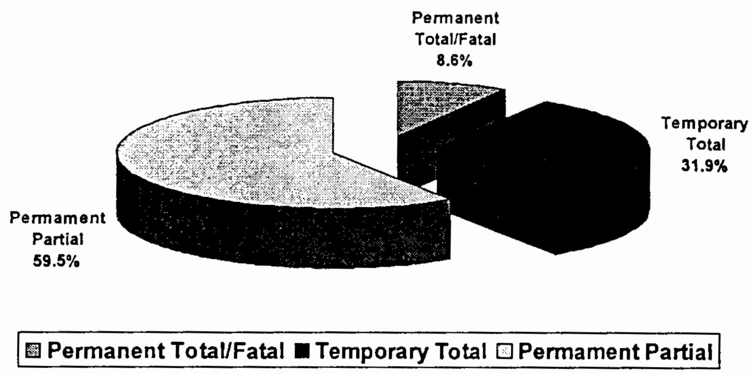
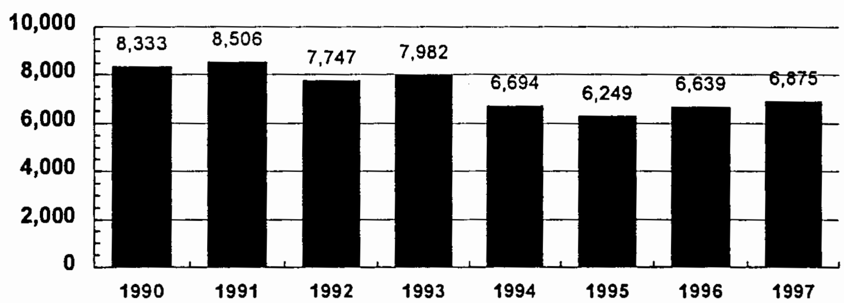
Arkansas
Percentage of Indemnity Losses by Injury Type



Source: Workers Comp Stat Plan Data

NCCI

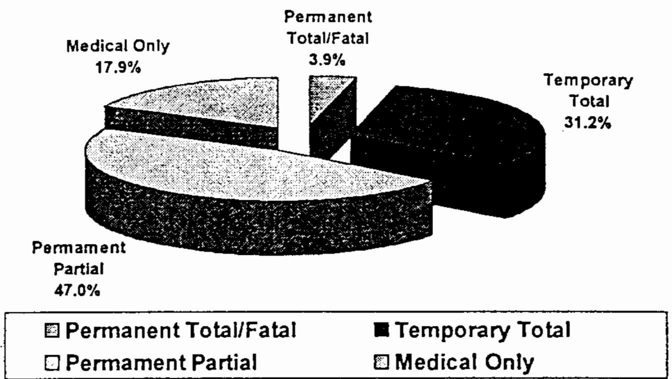
Arkansas
Indemnity - Average Cost per Lost Time Claim



Source: Financial Data as of 12/31/1998

NCCI

Arkansas
Percentage of Medical Losses by Injury Type



Source: Workers Comp Stat Plan Data

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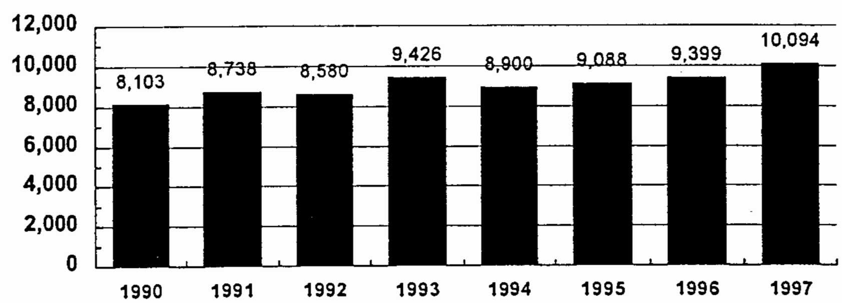
Arkansas
Medical - Average Cost per Lost Time Claim



Source: Financial Data as of 12/31/1998

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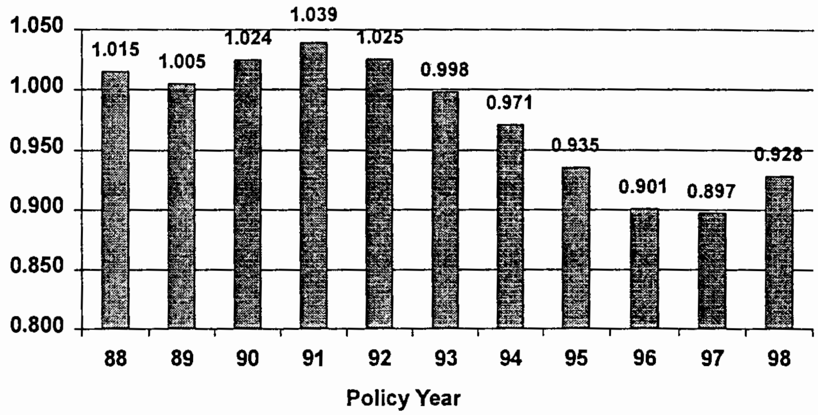


NCCI

Arkansas Assigned Risk Programs

- **Alternate Preferred Plan - Effective 3/1/94**
  - Premium credit applicable to employers with better-than-average loss experience. For the experience-rated, the MOD must be .80 or less. For the not-experience-rated, it is determined by the number of claims in the most recent three (3) years.
- **Loss Cost Differential**
  - Assigned risk loss cost level relative to voluntary loss cost level.
- **Merit Rating - Effective 3/1/94**
  - Premium adjustment (credit or debit) applicable to policies with annual premium less than the amount to qualify for experience rating. It is determined by the number of claims in the most recent three (3) years.
- **Removal of Premium Discounts - Effective 2/1/92**
  - Removes all premium discounts available to assigned risk policies.
- **Tabular Adjustment Program - Effective 3/1/94**
  - Premium adjustment applicable to all assigned risk policies. Credit or debit is given depending on the experience MOD as specified in the table.

NCCI

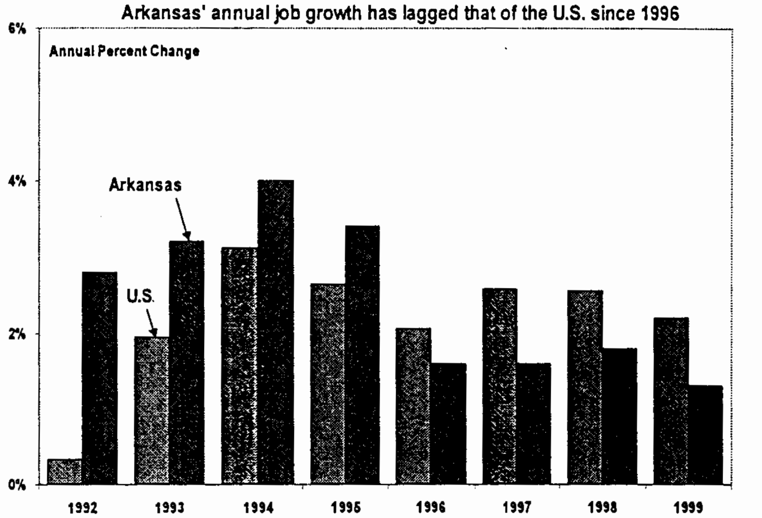
Arkansas Benefit Changes

Effective 1/1/99

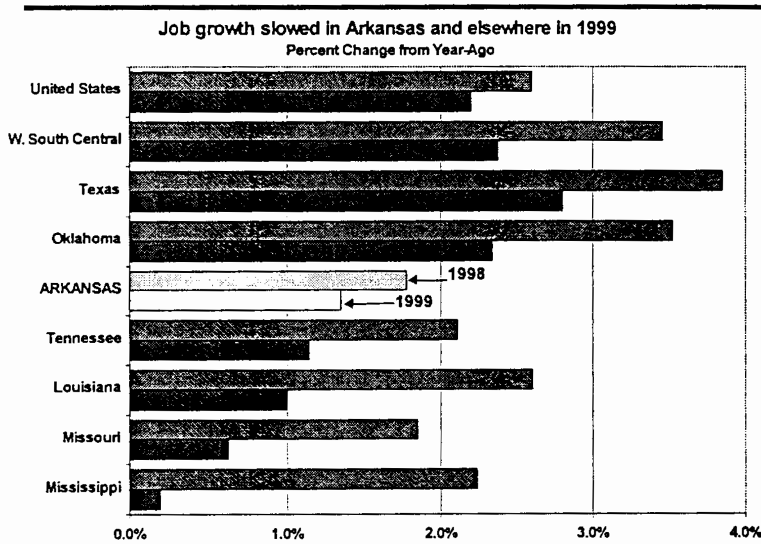
- Increase in Minimum/Maximum Benefits for Fatal/Permanent Total/Permanent Partial (Schedule)
  - From $20.00/$359.00 to $20.00/$375.00
- Increase in Maximum Benefits for Permanent Partial (Non-Schedule)
  - From $269.00 to $281.00
- Impact

Indemnity	Medical	Total
1.3%	0.0%	0.5%

Economic Outlook for Arkansas


Arkansas' annual job growth has lagged that of the U.S. since 1996
Annual Percent Change
6%
4%
2%
0%
Arkansas
U.S.
1992
1993
1994
1995
1996
1997
1998
1999

33


Job growth slowed in Arkansas and elsewhere in 1999
Percent Change from Year-Ago
United States
W. South Central
Texas
Oklahoma
ARKANSAS
Tennessee
Louisiana
Missouri
Mississippi
1998
1999
0.0%
1.0%
2.0%
3.0%
4.0%

34

Arkansas has a higher share of manufacturing jobs and a lower share of services jobs than seen nationally

	Pct. Tot. Jobs in '99	
	Arkansas	U.S.
TOTAL NONFARM EMPLOYMENT	100.0%	100.0%
Private Sector	83.5%	84.3%
Services	*23.7%*	*30.3%*
Wholesale and Retail Trade	*22.9%*	*23.2%*
Manufacturing	*22.2%*	*14.3%*
Construction	*4.4%*	*4.9%*
Trans., Comm., Pub. Util.	*6.1%*	*5.3%*
Fin., Ins., Real Estate	*4.0%*	*5.9%*
Mining	*0.3%*	*0.4%*
Government	16.5%	15.7%
Sum of Mfg., Const. And Mining ("Risky" Employment)	*26.9%*	*19.6%*

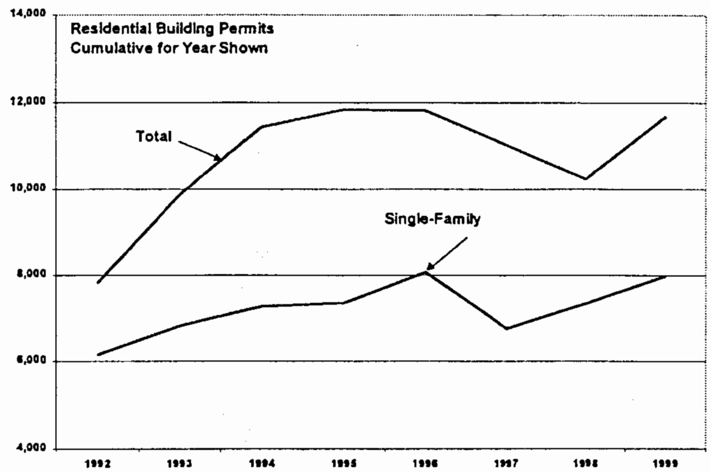
NCCI

Arkansas' overall job growth slowed in 1999, even as the rate of growth in construction jobs increased

	Year-Ago Pct. Chng.	
	1999	1998
TOTAL NONFARM EMPLOYMENT	1.3%	1.8%
Private Sector	1.4%	1.9%
Services	*2.7%*	*3.4%*
Wholesale and Retail Trade	*1.5%*	*1.6%*
Manufacturing	*-0.6%*	*0.5%*
Construction	*4.1%*	*1.0%*
Trans., Comm., Pub. Util.	*2.1%*	*3.5%*
Fin., Ins., Real Estate	*1.4%*	*2.0%*
Mining	*-6.2%*	*-4.9%*
Government	1.0%	1.2%
Memo: Risky Employment	*0.1%*	*0.5%*

NCCI

Housing had a very good year in Arkansas in 1999



NCCI

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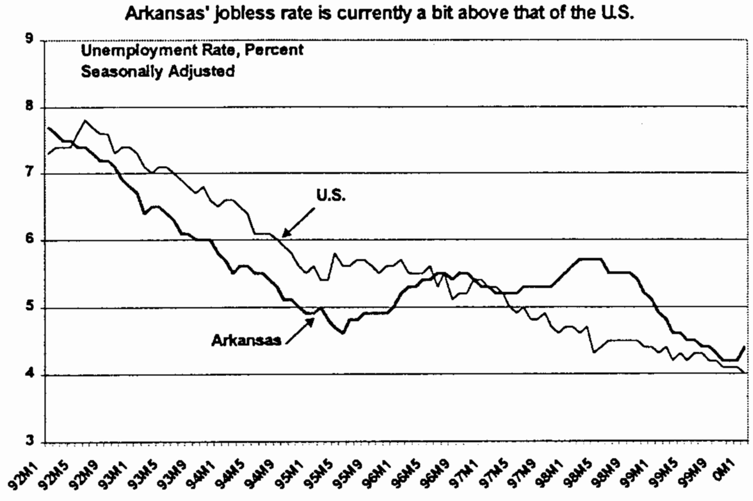
Arkansas' jobless rate is currently a bit above that of the U.S.



NCCI

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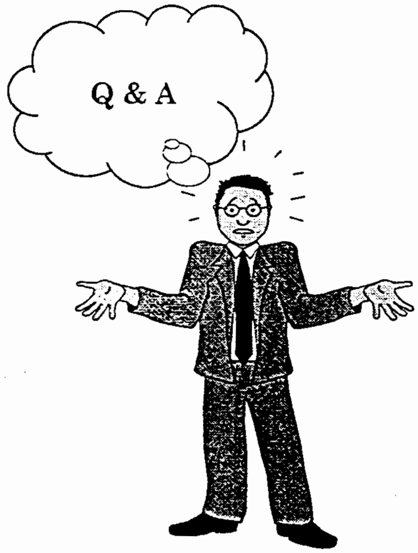


Closing Remarks

- Thank you !!!

"REVISED"

A REPORT TO THE LEGISLATIVE COUNCIL, AND THE SENATE and HOUSE INTERIM COMMITTEES ON INSURANCE AND COMMERCE OF THE ARKANSAS GENERAL ASSEMBLY (AS REQUIRED BY ACT 1143 OF 1997)

GREAT SEAL OF THE STATE OF ARKANSAS

Prepared by: Mike Pickens, State Insurance Commissioner
Lenita Blasingame, Director, Property & Casualty Division,
Arkansas Insurance Department

Date Submitted: December 20, 1999 (Revised February 17, 2000)

Industry experts said it would not last but Arkansas continues to enjoy the most competitive workers' compensation market with the lowest premium levels in decades. The market at this time, as for the past three years, is conducive to business growth, which should mean betters jobs and better wages for Arkansas citizens. The 1997 "Report to the Legislative Council and the Senate and House Interim Committees on Insurance and Commerce of the Arkansas General Assembly," included in this report as Attachment A, details the deplorable market conditions prior to 1993. This 1999 report will provide an update on many of the areas of concern outlined in the previous report.

ACT 796 OF 1993

In the early 1990's, Arkansas was identified by business and insurance industries as a state in need of significant workers' compensation law reform due to rate inadequacy and workers' compensation system costs that were spiraling upward out of control. As a result, in 1993, the Arkansas Legislature enacted Act 796 of 1993, which reformed the Arkansas Workers' Compensation Law. Although changes implemented by Act 796 of 1993 have been outlined in previous reports, I feel the impact of these changes warrant their inclusion in this current report. Those changes include:

1. The definition of "Compensable Injury" was redefined to include accidental injuries caused by specific incidents with a known time and place of occurrence. Injuries not caused by specific conditions were limited to a specific list of injuries.
2. Compensable Injuries can only be established by medical evidence supported by objective, rather than subjective, findings.
3. Compensable Injuries exclude injuries from assaults, recreational injuries, injuries before date of hire or after date of termination and injuries occasioned by the use of drugs or alcohol.

4. The presumption that the injury did not result from intoxication of the injured employee was repealed.

5. Strengthened and revised provisions concerning fraud and misrepresentations, including the creation of a workers' compensation fraud investigation unit in the Insurance Department which is charged with the responsibility of prosecuting workers' compensation fraud by agents, claimants, providers, insureds and insurers.

6. Mental injuries are not compensable unless caused by physical injuries, except where the claimant is a victim of a crime of violence.

7. Coronary, pulmonary, respiratory, or cardiovascular accidents or heart attacks are compensable only where the job related component is the major cause of the physical harm.

8. The Workers' Health and Safety Division was established in the Workers' Compensation Commission to promote workers health and safety through educational programs. Any insurance company underwriting or any employer self insuring workers' compensation coverage must maintain accident prevention services.

9. Employers who are considered "extra hazardous" and who do not submit to consultative safety services must submit to a safety audit and ultimate prevention plan.

10. An employee may maintain a third party cause of action. Also, an employer who is liable for compensation may also maintain a third party action against its uninsured or underinsured motorist coverage.

11. The Workers' Compensation Commission was instructed to and has implemented a system of managed health care in an effort to combat increased utilization and thus higher medical costs.

12. Aging and the effects of aging on a compensable injury are not to be considered in determining whether there has been a change in physical condition. This is a legislative reversal of a Arkansas court decision entitled The Tuberville Decision.

13. Any benefits awarded under the workers' compensation system will be proportionately reduced by benefits paid under any group health, accident, welfare benefit or disability insurance policy.

14. Allow insurance companies to offer employers policy deductibles ranging from $100 to $2,500 per compensable claim.

15. The funeral allowance for death benefits increased from $3,000 to $6,000.

16. Permanent disability benefits will not be awarded if the injury was not the major (greater than 50%) cause of the disability. If an intervening cause follows the injury and prolongs the disability, benefits will not be paid.

17. Employees entitled to permanent disability benefits who have not been offered an opportunity to return to work or re-employment assistance are entitled to the cost of a rehabilitation program. The maximum duration of the payments for the rehabilitation were raised from 60 weeks to 72 weeks.

18. The use of the "odd lot" doctrine was prohibited. This doctrine permitted a finding of total disability where the claimant is not altogether incapacitated for any kind of work but is nevertheless so incapacitated that he/she will not be able to obtain regular employment in any well-known branch of the competitive labor market absent super human efforts, sympathetic friends or employers, a business boom, or temporary good luck. (Black's Law Dictionary, 5th Edition, 1979)

19. Abolished a long-standing court implemented liberal construction of the workers' compensation law by instructing the Arkansas courts and Workers' Compensation Commission to "strictly construe" the act's provisions.

20. Provides penalties for failure to pay claims in a timely manner.

ADDITIONAL BENEFIT REFORMS ENACTED AFTER ACT 796 OF 1993

In 1996 the Arkansas General Assembly revised the maximum weekly rate for scheduled permanent partial disabilities resulting in amputation or permanent total loss of a member, and increased the maximum to 100% of an employee's total disability rate.

RATE IMPACT OF ACT 796 OF 1993

Absent the changes incorporated into Act 796, Arkansas's voluntary workers' compensation market would have disappeared and many employers would have found themselves unable to afford coverage in the Assigned Risk Plan and faced the choice of either closing down their business or operating outside the law.

The impact that Act 796 of 1993 had on workers' compensation premiums has been clear and significant. Prior to its enactment, premium rates were increasing significantly. For example, for both voluntary market and assigned risk plan, rates in 1991 and 1992 increased 15% and 18% respectively. 1993 was the first year in the last ten in which there was no rate increase. For the years 1993, 1994 (the first year after enactment of Act 796 of 1993), 1995, 1996, 1997 and 1998 and 1999 the rate stabilization/reductions were:

Year	Voluntary Market	Assigned Risk Plan
1993	-0-	-0-
1994	-0-	-0-
1995	-12.4%	-12.4%
1996	-08.0%	-03.7%
1997	-04.7%	-07.6%
1998	-09.1%	-08.2%

1999	-04.1%	-03.0
Total	**38.3%**	**34.9%**

The enactment of Act 796 of 1993 forestalled expected rate increases in 1993 and 1994. The decreases in 1995 through 1999 were the result of actual experience due to the effectiveness of the provisions of Act 796 of 1993.

COMPARISON BETWEEN PRE-REFORM (1992-93) AND POST REFORM (1995-96) POLICY CHANGES

Reported payroll in Arkansas has increased by 18.7% from 1992-93 to 1995-96 and the net premium for insureds has decreased 36.6% during this same time period. Also impacting the total premium paid by insureds, the average experience modifier has also decreased. This decrease in experience modifier could well represent the effect of increased loss control measures and the impact of Hazardous Employer Program operated by the Health and Safety Division of the Workers' Compensation Commission.

COMPARISON BETWEEN PRE-REFORM AND POST REFORM CLAIM STATISTICS

Developed indemnity losses decreased 43% while developed medical losses decreased 6%, with the average cost per claim decreasing 7.3%. Claim frequency decreased from 5.053 in 1992-93 to 3.869 in 1995-96. When you compare the 1994-95 figures with the 1995-96 figures, you do see increases in the cost of medical losses and a resulting increase in the overall cost per claim. Indemnity losses for this same time period have continued to decrease.

DEPOPULATION OF ASSIGNED RISK PLAN

Since last year, the assigned risk plan has seen a further decline in population. As of July 1997, there were only 8,417 risks in the Assigned Risk Plan and the premium volume was down to $28,795,000. During the past twelve (12) months we have seen additional drops in population and premium volume. As of July 1998, there were 6,372 risks in the Plan with a premium volume is down to approximately $16,282,000. As of September 1999, aggressive depopulation efforts by insurers and agents had reduced the Plan premium to $8,216,876. For those employers qualifying for voluntary coverage, cost savings can be substantial.

Attached as Exhibit B is a chart prepared by the National Council on Compensation Insurance ("NCCI") which reflects the average monthly plan premium volume. The total average monthly premium from January 1995 of approximately $90,000,000 dropped to an average monthly premium volume of approximately $8,600,000 as of August 1999. NOTE: *The $6,416,816 figure appearing in July 1999 was the result of delayed reporting by a large insurer and is not representative of the premium volume at that time.* This reduction in premium volume is a direct result of the reform measures enacted pursuant to Act 796 of 1993.

PLAN ADMINISTRATION/SERVICING CARRIERS

As earlier reports pointed out, some of the Plan problems and agent/insurer complaints were the result of lack of attention by the Plan Administrator, the NCCI. The NCCI is an "Advisory Organization" or "Rate Service Organization" licensed in Arkansas to assist its member insurers with respect to rate making-related activities. Restructuring by NCCI, additional resources directed toward residual market operations, and a solid commitment to improved service, combined with the location of an office in Little Rock (mandated by 1993 legislation) has resulted in dramatically improved service levels.

Effective January 1, 1998, the Commissioner re-appointed NCCI as Administrator for the Arkansas Assigned Risk Plan until at least July 1, 2001. The local NCCI office continues to provide competent, courteous assistance to insureds, agents, companies and the Department. The effectiveness of this office can be measured in the reduction of the number of complaints received by the Department and the reduced number of appeals which ultimately reach the

Appeals Board. The two (2) employees of the office are knowledgeable and committed to provide the necessary service.

Attached as Exhibit C is a report entitled **Arkansas 1998 Residual Market Annual Report** prepared by the NCCI detailing among other things detailed information on risk profiles such as average premium size, top ten classifications by code and by premium and a list of contacts within NCCI for specific areas of concern.

NCCI has also implemented a program which allows at no charge to the agent the option to submit assigned risk applications online. Upon successful submission this allows the customer to immediately receive a confirmation code and application identification number for reference.

Arkansas re-bid for Assigned Risk Plan servicing carriers effective January 1, 1998. NCCI administers all of the functions necessary to properly select bid winner(s) from a group of proposals. Responses to the RFP were reviewed, evaluated and scored based upon the following three (3) areas:

- Compensation at Risk (Price + Risk)
- Plan of Operation
- Historical Audit Results

Over the past several years the residual market in the State of Arkansas has gone through significant depopulation. While this shrinking of the Plan benefits all parties in the workers' compensation system, it does impact servicing carrier prices. On an aggregate level, as the premium in the Plan shrinks, the ratio of fixed cost to premium increases. On an individual policy level the larger risks are taken out of the Plan first, causing the average policy size remaining in the Plan to decrease. This means that the fixed cost of servicing each policy increases in relation to the total policy premium, meaning that the price as a percentage of premium goes up. Increased emphasis on service and managed care also cause a servicing carrier's price to increase.

Arkansas's increase in servicing carrier allowance compares favorably with all other states that went through a second bid process in 1997.

As a direct result of the reduced Plan premium, the number of servicing carriers was reduced from five (5) to three (3). The three (3) carriers selected through the bid process were Travelers, Hartford and Commercial Union. The bid process is designed to pick the carrier and quota share mix to provide the State of Arkansas with the best balance of services promised, past history of services rendered, price, and risk sharing.

During 2000 the Department will have conducted by an independent auditor an evaluation of servicing carrier performance; however, the Annual Servicing Carrier Performance Review conducted by NCCI reveals either "Commendable" or "Satisfactory" scores for all areas for Arkansas' servicing carriers.

SUMMARY OF INSURANCE DEPARTMENT'S FRAUD INVESTIGATION UNIT

Before the passage of Act 796 of 1993, there had never been a criminal prosecution in Arkansas for workers' compensation fraud committed by employees, employers or healthcare providers. Act 796 created the Workers' Compensation Fraud Investigation Unit and made any type of fraud committed within the workers' compensation system a Class D felony (maximum 6 years and/or $10,000 fine).

Fraud in the workers' compensation system was perceived to be epidemic. Since the majority of employers were in the "Plan," there was little, if any, incentive for thorough investigation of possibly fraudulent insurance claims and few consequences to those caught making intentional misrepresentations. Act 796 changed the entire landscape of the workers' compensation system, particularly in regard to the detection and prevention of workers' compensation fraud.

The cases represented by the statistics noted below, which are comparable per capita to those of other states with active anti-fraud efforts, are believed to have had a significant impact on workers' compensation rates in Arkansas and the deterrent factor has been substantial.

Referrals to the Workers' Compensation Fraud Investigation Unit have been reduced by approximately 75% since its first year of operation. As anticipated, the number of referrals received per year has leveled out at approximately 100-115. It will be important that the Unit's work continues since any lessening of the anti-fraud effort would most likely result in a re-emergence of fraud committed by employees, employers, and healthcare providers.

Workers' Compensation Fraud Investigation Unit Activity Report

	9/1/98 - 8/31/99	Unit Totals (Since 10/93)
Referrals Received	081	1,308
Employee	093	975
Employer	018	272
Third Party	002	061
Investigations Opened	102	575
Employee	085	416
Employer	016	125
Third Party	001	034
Cases Referred for Prosecution By Legal Section	007	114
Employee	013	126
Employer	000	014
Third Party	002	012
Prosecutions Won	**004**	**077**
Employee	002	056
Employer	000	013
Third Party	002	008

	9/1/98 - 8/31/99	Unit Totals (Since 10/93)
Prosecutions Lost	**000**	**003**
Employee	000	003
Employer	000	000
Third Party	000	000
Cases Returned By Prosecutors W/O Action	**001**	**023**
Employee	001	020
Employer	000	002
Third Party	000	001
Fines/Cost	**$785.50**	**$292,476.44**
Restitution	**$25,912.00**	**$263,234.82**

RECENT COURT DECISIONS

In our report to you last year we identified a number of factors that had created problems in the last decade with respect to the workers' compensation system. One such factor was over-expansive Arkansas Workers' Compensation Commission and Court of Appeals decisions which routinely broadened the scope of the law and which, over a period of years before the implementation of Act 796 of 1993, effectively rewrote the workers' compensation code so as to render it almost meaningless. Even though this trend was addressed by Act 796 of 1993, I am concerned that some recent court decisions will adversely impact the cost of workers' compensation coverage in Arkansas, and may very well undermine the 1993 reform legislation. Two (2) recent Arkansas Supreme Court cases and three (3) Court of Appeals cases especially come to mind.

A. Arkansas Supreme Court Decisions

1. Golden v. Westark Community College, 333 Ark. 41 (issued 4-30-98).

This decision struck down the Social Security offset contained in Act 796 of 1993 as unconstitutional. Ark. Code Ann. § 11-9-522(f) provided that benefits for permanent disability would be offset by any Social Security retirement benefits received. The Arkansas Court of Appeals and the Workers' Compensation Commission had previously ruled this provision to be constitutional. The Arkansas Supreme Court, in declaring this statute unconstitutional, acknowledged that Kansas, Maine, Massachusetts, Montana, Tennessee and Washington had found such an offset constitutional, while only Colorado and West Virginia had ruled the provision to be unconstitutional. Even though the states were divided on this issue, the Arkansas Supreme Court, in a unanimous decision, chose to follow what is presently the minority view.

2. Kildow v. Baldwin Piano and Organ, 333 Ark. 335 (issued 5-21-98).

Prior to the decision in this case, virtually all legal authorities had concluded that in gradual onset of Carpal Tunnel Syndrome cases, an employee must prove that the Carpal Tunnel Syndrome injury was caused by rapid and repetitive motion. Both the Workers' Compensation Commission and the Arkansas Court of Appeals found the claimant must prove that the injury was caused by rapid and repetitive motion before the claimant was entitled to recovery. The Arkansas Supreme Court reversed the Workers' Compensation Commission and the Arkansas Court of Appeals' decision and held that Carpal Tunnel Syndrome was compensable per se under our statute. As a result, proof of rapid and repetitive motion is no longer a prerequisite for recovery under the Arkansas Workers' Compensation law for a Carpal Tunnel Syndrome claim.

B. Arkansas Court of Appeals Decision

1. Clark v. Sharro, Inc., 67 Ark. App. 372 (1999)

In this case the Court of Appeals appears to have broadened the law with regard to whether rebuttable presumption is overcome when alcohol is found to be present at the time of an injury. The claimant died in a 2 vehicle accident in which the claimant as well as the other driver had blood alcohol levels in excess of .20%. In this case the court disagreed with the AWCC finding that claimant's BAW of 21% and the likely resulting impaired judgement and apparent speeding substantially occasioned the accident. The C of A was more persuaded by the fact that the other driver crossed the center line and that this should be considered the direct cause of the accident, not the use of alcohol and the evident intoxication of the claimant.

2. Gudron Ray v. University of Arkansas, 66 Ark. App. 177 (1999)

Claimant was a cafeteria worker who was injured while on a break from her duties. She was serving herself some food from the salad bar in that cafeteria when she fell after slipping on some food that was on the floor. Ark. Code Ann § 11-9-102(5)(B)(iii) states that a compensable injury does not include "injury which was inflicted upon the employee at a time when employment services were not being performed..." Although the Full Commission ruled that claimant was not performing employment services, the Court of Appeals held that the employer gleaned benefit from the claimant's being present during her break by requirement that she leave her break if a student needed her assistance, and thus, injury occurred within the course of employment and was compensable. This case certainly blurred the line for determining when a claimant is actually performing employment services.

3. Oak Grove Lumber Company v. Highfill, 62 Ark. App. 42 (issued 5-6-98). This case involved a worker originally dropping a sledge hammer on his right foot at work. He was immediately treated and diagnosed with a nondisplaced fracture of the right foot. The claimant soon returned to work after the accident. After working a few days, the claimant took off to attend a church outing, and while on that outing walked or tripped on a tree root which resulted in a displaced fracture of the right foot. The physician testified that the second fracture did not follow as a natural progression in the course of events of the facts stated. The issue in this case was whether a second incident, occurring away from work, is a natural consequence of the original compensable injury, or whether the second incident constituted an independent intervening cause. The Arkansas Workers' Compensation Commission ruled in favor of the claimant, and the majority of the Court of Appeals affirmed. The dissenting Justices wrote that the decision was a blatant example of judicial legislation and flies in the face of the public policy as declared by the Legislature.

These and other decisions are troubling because they appear to signal that our courts may be heading back in the direction of judicial legislation which, among other things, was the reason for the passage of Act 796 of 1993.

1999 LEGISLATIVE ACTIVITY WITH REGARD TO WORKERS' COMPENSATION

Act 1552 of 1999 provides a premium credit for employers who implement and maintain a drug-free workplace program in accordance with guidelines developed by the Arkansas Workers' Compensation Commission. The Commission has developed Rule 36, Voluntary Program for Drug-Free Workplaces and the Insurance Department has approved a filing by NCCI which outlines the guidelines for the implementation of the credit and establishes a minimum credit of at least 5%. Available to policyholders whose policy renews on or after January 1, 2000, this credit will be applied at audit to employers who have maintained the drug free workplace throughout the policy period.

CONCLUSION

Act 796 of 1993 resurrected Arkansas's dead workers' compensation market. The General Assembly is to be highly commended for their leadership in reforming the workers' compensation market in our State. The market at this time is strong and competitive.

In order to be able to grow and expand, and to hire more employees at higher wages, it is imperative that Arkansas employers have available to them quality workers' compensation products in the voluntary market, at affordable prices. If we are to create an atmosphere in Arkansas where businesses -- large, medium and small ones -- can create good jobs for Arkansans, it is important that we maintain the Act 796 reforms. The reforms have worked to stop and deter fraud, and have allowed us to increase compensation rates and take care of workers who have truly been injured within the course and scope of their employment. If Arkansas is to be prepared for true economic growth in the 21st century, we must maintain the Act 796 reforms, and not allow special interests to put their interests ahead of those of injured workers and insurance consumers.

cc: Governor Mike Huckabee
Chairman Eldon Coffman, AWCC
Commissioner Pat West Humphrey, AWCC
Commissioner Mike Wilson, AWCC
Ms. Julie Bowman, Chief Executive Officer, AWCC
Mr. Bob Ridgeway, Deputy Commissioner & General Counsel, AID
Mr. Marty Nevrla, Insurance Fraud Investigation Division Director, AID
Ms. Lenita Blasingame, Property and Casualty Division Director, AID

Exhibit A

A REPORT TO THE LEGISLATIVE COUNCIL, AND THE SENATE AND HOUSE INTERIM COMMITTEES ON INSURANCE AND COMMERCE OF THE ARKANSAS GENERAL ASSEMBLY (AS REQUIRED BY ACT 1143 OF 1997)

Prepared by: Mike Pickens, State Insurance Commissioner
Lenita Blasingame, Director, Property & Casualty Division,
Arkansas Insurance Department

Date Submitted: September 1, 1997

By the time Act 796 of 1993 was signed into law, Arkansas' voluntary workers' compensation market was virtually non-existent. Fifty-two percent (52%) of all employers were being written in the Assigned Risk Plan. This represented some 17,724 employers and a premium volume of $148,798,000 as of July 1993. Arkansas' experience was not unique. Over the last decade the workers' compensation system countrywide was experiencing problems due to a combination of factors including, but not limited to, the following:

- Increasing medical costs, at a rate many times in excess of the growth in cost of living;

- Increasing indemnity, legal, and administrative costs due to a plethora of lawsuits brought on by lawyer advertising and the litigation mentality of our society (many claims that could previously have been informally resolved are now taken to a lawyer, which inevitably increases the cost to the insurer and, ultimately, the employer);

- An attitude of "entitlement" among many in the workforce, whereby people deem workers' compensation to be a government-provided welfare program, when, in fact, it is a system the entire cost of which is borne by insurers and employers;

- Fraudulent claims increasing dramatically, including "cost shifting" of medical problems from major medical plans (with deductibles and co-payment responsibilities) to the workers' compensation system (with "first dollar" coverage); this is an area where the health providers, legal and labor communities all bear a portion of the responsibility;

- A "liberal" Arkansas Workers' Compensation Commission and Court of Appeals which routinely issued workers' compensation decisions broadening the scope of the statute and which, over the years, expanded the Workers' Compensation Code so as to render it almost meaningless;

- Continually increasing "assessments" against the voluntary writers to cover the losses in the assigned risk plan, an assessment which reached $.51 cents for every dollar of voluntary premium. In "real world" terms, of course, that meant the insurers had only $.49 cents left to pay for all claims, legal expenses, commissions, internal administration, and to establish reserves for future claim payments, which was an impossible task;

- Arkansas has historically been one of the poorer states in the nation in terms of workers' safety (e.g., ranking 45th out of 50 in a general workplace safety report issued by the National Safe Workplace Institute in January 1992), a situation which tends to exacerbate all of the other trends noted herein, and a factor for which both government and business share responsibility; and

- Actuarially unsound rate suppression, and the accompanying market interference, by the Insurance Department.

It had reached a point in early 1993 where there were less than six (6) carriers voluntarily writing workers' compensation insurance in Arkansas. This was a direct result of all of the factors described above, making it impossible for carriers to reap a profit on this line of business. The State had no power to force carriers to write voluntarily, so with the voluntary market drying up, the assigned risk plan burgeoned from the ideal eight to nine percent (8 to 9%) to the point where it became the major workers' compensation market. With the number of voluntary writers leaving the State. the base against which assessments could be made was dwindling.

In the era when the assigned risk plan was truly a market of last resort. only a few employers were forced into it. Because of the factors discussed above which dried up the voluntary market. there was too few carriers and too little competition. As a result. those carriers still writing voluntarily were highly selective. This meant that often employers with excellent safety records. but with a small amount of premium. have found themselves in the Workers' Compensation Insurance Plan ("WCIP").

This evolution resulted in a desperate. catastrophic situation for small Arkansas employers and was the impetus for the effort by this Department commencing in 1991 to de-populate the WCIP to the extent we had the authority to do so. Prior to July 1991. the Arkansas Assigned Risk Plan had been under the jurisdiction of the Arkansas Workers' Compensation Commission. When responsibility was transferred to the Insurance Department, we evaluated the Plan problems and initiated steps to address those problems.

It was our determination that the only way to lessen the assessment and make it possible to create an atmosphere which was conducive to competition, and get more carriers back into the voluntary market in Arkansas, would be to:

- De-populate the assigned risk plan and reduce the "burden" it was placing upon the industry and employers both within and without the Plan: and

- Provide a means whereby carriers could have a fair, reasonable opportunity to make a profit in this line of business, and thereby be enticed back into the State to write on a voluntary basis.

As I am certain you recognize, these goals were very much interrelated, and the steps that were taken were designed to achieve both goals, in tandem. The significant regulatory steps designed to reach these goals, in sequence, were as follows:

A. <u>CANCEL CLASS 2702 SUBSIDY</u>

For more than twenty (20) years Workers' Compensation Class Code 2702 (Logging and Lumbering) has been a source of tremendous difficulty for the assigned risk market. Employers within the Class were allowed to compute their payroll (and therefore the base upon which their premium was computed) on the basis of "upset factors" such as tonnage or board fee produced, which had no relation whatever to the actual payroll made to the workforce. The effect of this procedure was that premium in Class 2702 was under-stated, under-reported and under-collected. Since the risks posed to workers in this class are extremely high, medical and indemnity claims were growing at an exponential rate and there was inadequate premium from the logging industry to pay these claims. Since all the claims had to be paid, assessments were made against all carriers, resulting in premium increases for all business owners in the State, including non-loggers as well as loggers. Those other employers, then, were being forced to subsidize the losses to the assigned risk plan caused by this artificial and unresponsive special method of computing payroll and calculating premiums for this single class of employers.

In order to bring this problem under control, in early 1991 the Insurance Department held a series of meeting with interested parties and a public hearing which resulted in Order No. 91-30 of August 2, 1991, which was followed by subsequent clarifying Orders. The impact of Order No. 91-30 was to abolish the "upset payroll" system for Class 2702 and stabilize the Advisory Manual Rate for that Class at $29.25 for all employers. The subsequent clarifying Orders provided "phase in" and "transition" clarifications, but Order No. 91-30 was the first dramatic step to effect a change in the inequities within the assigned risk plan and to begin de-population thereof.

B. ELIMINATE PREMIUM DISCOUNTS

By a filing solicited by the Department and approved on February 1, 1992, premium discounts by size of risk were no longer available within the assigned risk plan. This had the effect of "leveling" the premium paid within given classes, reducing the shortfall in premium and reducing the resulting assessment to carriers.

C. RE-CREATION OF RATE DIFFERENTIAL

In the years from 1948 to 1982 there was a rate differential between the voluntary market and the WCIP of eight percent (8%). That differential was removed in 1982, and from that point onward the rates paid by employers who were able to get voluntary coverage (from those few carriers still writing) and the rates paid in the assigned risk plan were identical. There was, therefore, no incentive for agents or employers to either: (i) improve safety and loss control; or (ii) really try to find a voluntary writer of workers' compensation coverage. Effective February 1, 1992, the Commissioner imposed a rate differential of 25 percent (25%) for all employers in the assigned risk plan. This had the intent and effect of: (i) making assigned risk rates reflective of the exposure, (ii) giving employers an incentive to make their workplaces safer and to insist their agents diligently seek voluntary coverage, and (iii) giving workers' compensation carriers a "window" of 25 percent (25%) over advisory manual rates within which they might make voluntary rate filings and potentially compete for business at rates less than assigned risk rates.

D. ADJUSTMENT OF ASSIGNED RISK ADJUSTMENT PROGRAM ("ARAP")

A key element in any ratemaking system is the incorporation of a means whereby those employers that have poor safety records and loss experience will pay a legally justified, meaningful penalty for that poor record. Several years ago, the Department approved an Assigned Risk Adjustment Program ("ARAP") to apply to employers with poor experience modification factors, on a sliding scale basis, with a maximum surcharge of 49 percent (49%). Once the rate differential of 25 percent (25%) became effective, the Commissioner lowered the cap on the top end of the penalty scale to 25 percent (25%) to reduce the maximum impact on any single employer.

E. ESTABLISHMENT OF "TAKE-OUT" PLAN

In an effort to provide further incentive for carriers to re-enter the voluntary market, the Department approved a filing, which provided an incentive for voluntarily writing business currently in the assigned risk plan. Effective on April 1, 1992, this plan gave carriers removing a risk from the Plan a "take out credit" against the voluntary premium base of that carrier which is used in the formula to determine its assessment. The credit was set at 1.5, meaning that for every dollar of premium taken out of the Plan, the carrier helping the State by de-populating" the Plan would be given a deduction of $1.50 from its premium base. With lower relative assessments to cover the losses within the WCIP, carriers will have a better chance to make a profit in workers' compensation as a whole, and costs for employers should decrease.

F. PLAN ADMINISTATION/SERVICING CARRIERS

During 1992, 1993 and 1994, the Arkansas Assigned Risk Plan business was assigned to one of twelve (12) servicing carriers who were paid a fee or allowance for their services. Effective January 1, 1995 the Department selected, through a competitive bid process, five (5) servicing carriers. This competitive selection allowed the Department to reduce the servicing carrier allowance from an average of 27.4% of Plan premium to an average of 20.9%. This results in estimated savings to the Arkansas Workers' Compensation Plan in excess of $8,000,000 over the three (3)-year period of the contract.

The 1995 bid was for a three (3)-year period ending December 31, 1997. The Department is in the process of re-bidding for servicing carriers. The RFP has been distributed, the Bid Conference held, and bids are due within the next three (3) weeks. A final decision on the servicing carriers will be made in early October 1997.

The Department had an independent audit of current servicing carriers conducted by Milliman & Robertson, Inc., an actuarial consulting firm. This was a market conduct audit limited to claim administration, underwriting, rating and loss control. In addition to this review, the Department looked at self-audits conducted by the carriers and on-site audits conducted by the Plan Administrator, the National Council on Compensation Insurance ("NCCI").

The Milliman & Robertson auditors selected samples of open and closed workers' compensation claims from each servicing carrier. The claim files were reviewed to determine the accuracy of reserve estimates, as well as a number of important claim administration activities, including the areas of initial contact, investigation, documentation, and proper claim handling.

When the carriers initially responded to the RFP, there were minimum standards for servicing carriers, performance standards all carriers were required to meet. The carriers had the option, however, to bid "enhancements" to these minimum standards, which most carriers elected to do. The review tested claim files not only for overall compliance with minimum servicing carrier standards, but also with any enhancements to those standards the carrier might have bid. This testing sample included fifty (50) policies per servicing carrier, with samples selected to include both medical only and indemnity exposures.

Although each carrier evaluation was unique, overall the number of Arkansas bid exceptions noted were minimal. With the reduction in the number of servicing carriers, the Insurance Department staff was better able to work with the individual carriers to resolve minor issues before they became major problems. The results of this audit will be used as an evaluation tool in the upcoming bid process.

The Department has, for the last three (3)-years, tracked by carrier the complaints received by this Department. There was a dramatic reduction in the volume of complaints, and the substantive nature of the complaints, received during 1994 and those received during 1995 and subsequent years. Prior to the bidding process, lack of response by servicing carriers was the most common complaint. It was not at all unusual for an agent or insured to wait on hold for thirty (30) or more minutes before reaching a company representative to receive an answer to an inquiry. One of the bid requirements specific to Arkansas was adequate telephone lines and company staff to handle the volume of business awarded. This requirement has apparently resolved many of the issues surrounding an insured's ability to contact the carrier.

The NCCI has been Plan Administrator of the Assigned Risk Plan for a number of years. During the early part of 1990, NCCI began a consolidation process, moving much of its operation from regional offices to the home office in Boca Raton, Florida. While designed to be more cost effective for NCCI, the end result for insureds, agents and regulators due to the loss of long-time employees, staff reductions and a number of other factors was a level of service that was less than desirable for a period of time. NCCI during the last two (2) years has overcome most of those problems and now, once again, provides the competent, professional level of support they once provided. During the problem era, legislation was passed which required the Plan Administrator to maintain an office in Arkansas. That office was established in 1994, and has become a valuable asset to insurers, agents, insureds and the Department. Local staff is competent, easily accessible, and always willing to assist. In 1996 responsibility for handling appeals was transferred from Boca Raton to the Little Rock office. Efforts are made at the local level to resolve as many appeal issues as possible prior to scheduling a matter for a hearing before the Appeals Board. This process has proven to be extremely efficient.

Rule and Regulation 54 is the Department's Workers' Compensation Insurance Plan. This regulation was revised in 1996 to accommodate the Plan Administrator's implementation of an electronic applications submission process, which streamlines the application process and permits electronic funds transfers.

In 1997, for a January 1, 1998 effective date, the Department compared available options for Plan Administration and elected to reappoint the NCCI as Plan Administrator until at least July 1, 2001. This reappointment was based upon:

1. My consideration and determination that this appointment would result in the proper administration of the Plan with the most cost effective, comprehensive operational and

service capabilities available in the marketplace today, due to the experience and past record of service provided by the NCCI, as compared to the other alternatives available:

2. My review of other administrative services reasonably available, and a determination that they are not comparable to those offered by NCCI:

3. My determination that there has been a significant improvement in Plan administration and servicing carrier performance:

4. My determination that the continued retention of NCCI as Plan Administrator remains in the best interest of the people of the State of Arkansas:

5. My determination that the current administration of the Plan provides:

   a. Coverages and services that are adequately and properly provided to Arkansas employers entitled to insurance:

   b. Coverage in other states for employees of Arkansas employers to the extent possible: and

   c. Proper coverages that are in the best interests of the employers and Plan operations.

6. My determination that the Arkansas office has the staff and authority necessary to properly serve Arkansas employers and my office; and

7. NCCI's representations to me, through its authorized representatives, that NCCI will continue to provide its complete cooperation to this Department and will work with us to further improve Plan operations, so as to maximize the continued positive effect of the Plan upon Arkansas' economy.

G. ACT 796 OF 1993, THE ARKANSAS WORKERS' COMPENSATION REFORM ACT

The last, and possibly most significant, step taken in an effort to de-populate the Plan was to work diligently to restore fiscal integrity to the administration of the workers' compensation claims system. All of the Plan adjustments in the world affecting premium allocations, and computation thereof, could not really work unless the claims side of the equation was addressed as well. Those changes were embodied in Act 796 of 1993. The results speak for themselves.

In calendar year 1992 there were 204 employers taken out of the Plan and written voluntarily -- representing a withdrawal of over $5,200,000 in premium from the Plan and placed into the voluntary market at lower cost to those employers. As of July 1997, there are only 8,417 risks still in the Assigned Risk Plan and the premium volume is down to $28,795,000. These figures mean that almost 10,000 risks and more than $120,000,000 in premium have gone from the Plan into the voluntary insurance market. 1993 was the first year in the last ten (10) in which there has been no rate increase. The subsequent years have continued to reflect the positive trend with rate decreases in 1994, 1995, 1996 and again in 1997. Assigned risk rates are moving toward being based solely on the experience of participants in the Plan. and will truly reflect the exposure.

Changes mandated by Act 796 resulted in benefit increases for injured workers. In January 1996 (a full year earlier than scheduled) there was an increase in the computation of the average weekly wage from 70% to 85%. and increases in both the temporary total and permanent partial disability rates. This early implementation was due to the improved marketplace performance and resulting rate decreases. In 1997 further benefits were given to eligible workers injured on the job through the elimination or reduction in the pension plan offset.

When these efforts started we could identify less than six (6) carriers still voluntarily writing workers' compensation insurance in Arkansas. As a result of the steps which have been taken and outlined above, we now have close to one hundred (100) carriers voluntarily writing workers' compensation in Arkansas. We are contacted weekly by carriers wishing to expand their authority in Arkansas to include workers' compensation.

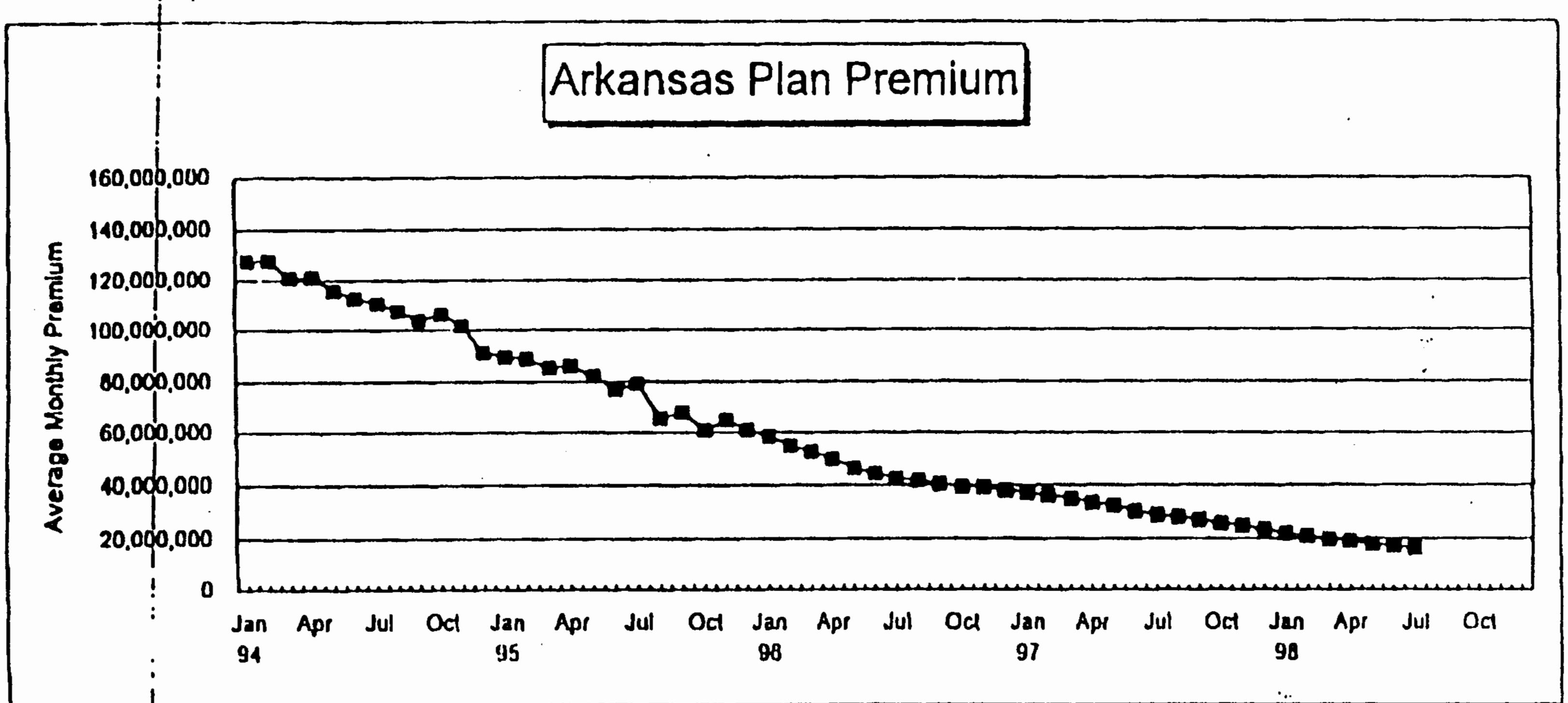
CONCLUSION

The Department is well aware that today's soft market can and eventually will become a hard market. We are also keenly aware of the effect that lack of attention to the assigned risk market can produce. Consequently, the Department will continue to carefully monitor market trends to assure, as much as humanly possible, that we do not suffer a repeat of the market cycle of the early 1990's.

I am a strong supporter of Act 796 of 1993, because I firmly believe it played a key role, along with the aforementioned factors, in resurrecting the workers' compensation market in Arkansas. I respectfully request the support of the Arkansas General Assembly, the Workers' Compensation Commission, and the Appellate Courts in upholding Act 796 of 1993. Market factors beyond our control will serve to harden the workers' compensation market in Arkansas. However, if the Commission, the Courts and this Honorable Assembly allow the fair, reasonable provisions of Act 796 to be eroded, we may very well see a rapid return to the pre-Act 796 market of 1993. This would inevitably spell disaster for the many Arkansas employees and employers who depend upon the proper functioning of the complex, interrelated dynamics of this market.

cc: Governor Mike Huckabee
Chairman Eldon Coffman
Commissioner Mike Wilson
Commissioner Pat West Humphrey
Mr. John Kennedy

Exhibit B



AVERAGE PLAN PREMIUM

	1994	1995	1996	1997	1998
JANUARY	127,488,000	89,393,000	58,582,000	37,056,000	21,845,000
FEBRUARY	127,678,000	88,632,000	55,074,000	36,055,000	20,813,000
MARCH	120,726,000	85,186,000	52,661,000	34,909,000	19,669,000
APRIL	121,122,000	85,865,000	50,019,000	33,434,000	18,985,000
MAY	115,473,000	82,091,000	46,430,000	32,386,000	17,947,000
JUNE	112,524,000	76,857,000	44,207,000	30,218,000	17,126,000
JULY	110,515,000	78,931,000	42,301,000	28,795,000	16,282,000
AUGUST	107,368,000	65,450,000	41,600,000	28,142,000	0
SEPTEMBER	103,717,000	67,625,000	40,439,000	27,005,000	0
OCTOBER	106,299,000	60,800,000	39,315,000	25,786,000	0
NOVEMBER	101,477,000	64,699,000	39,179,000	24,706,000	0
DECEMBER	91,082,000	60,867,000	38,021,000	23,505,000	0

The Plan Premium figures above represent the average size of the residual market in Arkansas as of the month stated. These

Exhibit B

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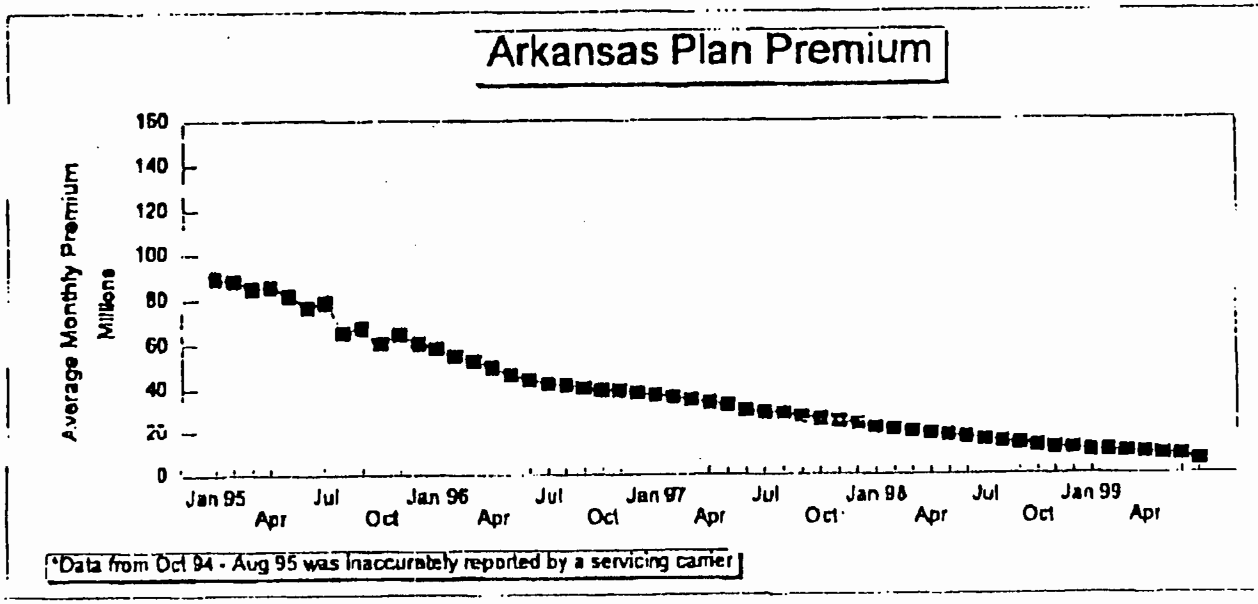
To Lenita Blasingame | From C. Booth
Co./Dept. | Co.
Phone # | Phone #
Fax # 501-371-2618 | Fax #



AVERAGE PLAN PREMIUM

	1995	1996	1997	1998	1999
JANUARY	89,393,000	58,582,000	37,056,000	21,845,000	10,814,378
FEBRUARY	88,632,000	55,074,000	36,055,000	20,813,000	10,847,741
MARCH	85,186,000	52,661,000	34,909,000	19,669,000	10,234,352
APRIL	85,865,000	50,019,000	33,434,000	18,985,000	9,711,971
MAY	82,091,000	46,430,000	32,386,000	17,947,000	9,204,227
JUNE	76,857,000	44,207,000	30,218,000	17,126,000	8,794,174
JULY	78,931,000	42,301,000	28,795,000	16,282,000	6,416,819 *
AUGUST	65,450,000	41,600,000	28,142,000	15,231,000	8,616,124
SEPTEMBER	67,625,000	40,439,000	27,005,000	14,388,000	8,535,847
OCTOBER	60,800,000	39,315,000	25,786,000	13,079,000	0
NOVEMBER	64,699,000	39,179,000	24,706,000	12,082,000	0
DECEMBER	60,867,000	38,021,000	23,505,000	11,823,000	0

The Plan Premium figures above represent the average size of the residual market in Arkansas as of the month stated. These figures are 12 month rolling totals based on policies reported to NCCI by Servicing Carriers. They include assignments less than 120 days old that have not yet been reported as policies and a percentage of recently expired policies that NCCI expects to be renewed. These totals are net of cancelations and include any additional premium due to policy endorsements.

Exhibit C

NCCI National Council on Compensation Insurance, Inc.

Arkansas

1998 Residual Market Annual Report

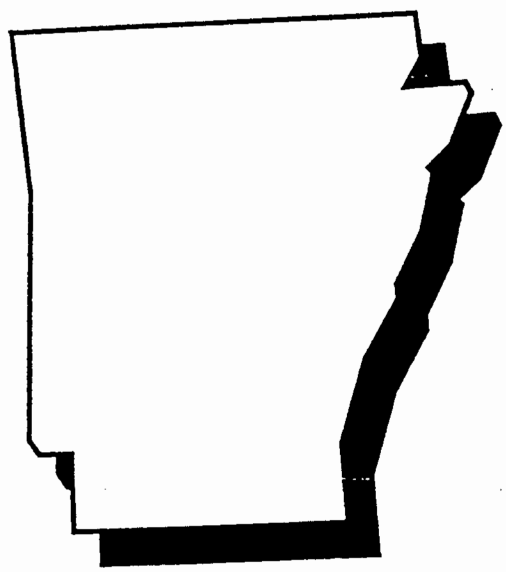


Table of Contents

Introduction

For over 27 years, NCCI has been recognized as the premier residual market provider of effective management and oversight for all residual market activities including administration of Plan and Pool operations. NCCI offers state-of-the-art residual market products and services to state insurance departments, insurance carriers, producers and employers. NCCI's role as Plan Administrator involves a variety of responsibilities:

- Processing assigned risk applications, determining risk eligibility for coverage, and binding of coverage
- Determining the methodology and formula for the equitable distribution of assigned risk business among assigned carriers
- Interpreting Plan rules and procedures
- Establishing written performance standards for servicing carriers, subject to Pool Board acceptance
- Administering the dispute resolution mechanism
- Monitoring servicing carrier performance
- Overseeing the servicing carrier selection process

NCCI also maintains extensive databases that are used to store risk-specific workers compensation information reported by carriers, such as policy data, classification codes, and loss experience. Each database is then used to electronically search and retrieve policy history information.

In addition, NCCI acts as Pool Administrator of the National Workers Compensation Reinsurance Pool (Pool) with oversight by an elected Board of Governors. As Pool Administrator, NCCI serves as a central clearinghouse for Pool transactions such as:

- Handling of financial reporting procedures
- Determining residual market Pool reserves, subject to Pool Board approval
- Playing a vital role in controlling the operating results through collection activity
- Providing general Pool administration and oversight

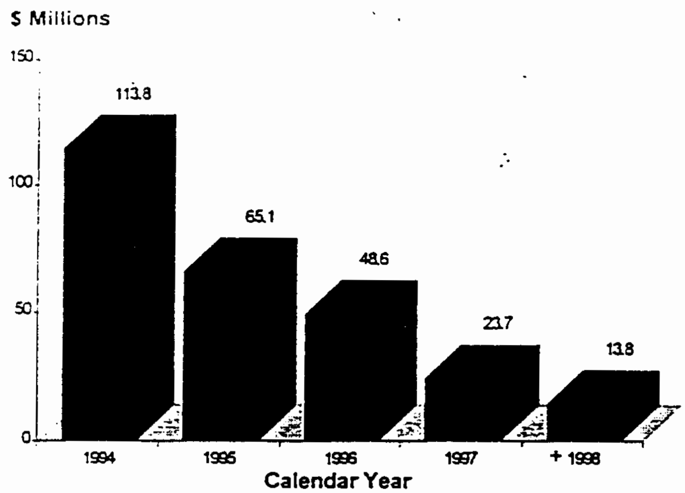
NCCI continues to improve the residual market's infrastructure by implementing system or procedural changes to increase productivity and efficiency. This helps to ensure residual market cost savings, depopulation and equitable service goals for all insureds. For example, NCCI has recently unveiled a new application submission option called ***RMAPS***[SM] **Online Application Service.** This new option is available through the Internet at **www.ncci.com** and allows the producer community the opportunity to provide enhanced customer service to residual market policyholders.

NCCI welcomes any future opportunities to provide superior customer service, offer quality products, preserve residual market financial stability and oversee continued depopulation of the residual market.

Residual Market Premiums Written and Share

The residual market premium includes Arkansas premium reinsured by the National Workers Compensation Reinsurance. The residual market share by calendar year is derived by comparing calendar year total Arkansas residual market Pool premium to the total Arkansas direct premiums written for the corresponding calendar year.

Residual Market Premiums Written



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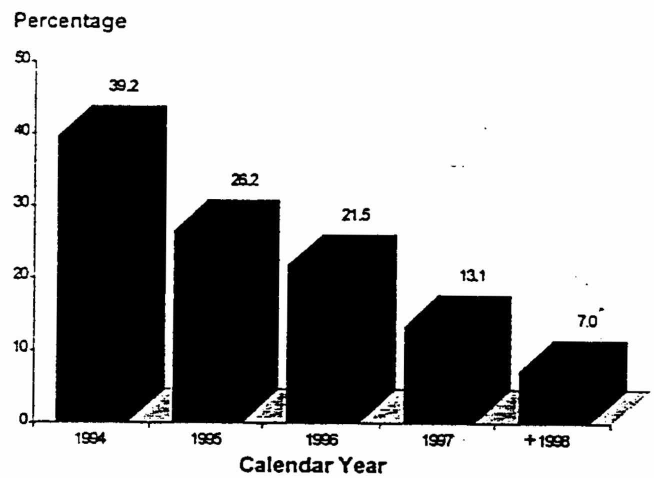
Residual Market Share



+ 1998 Preliminary

Policy Year Pool Financial Results

In Arkansas, Pool premiums continue to decrease as the Pool depopulates. Predicted ultimate Pool written premiums for Policy Year 1994 are $105 million, while Policy Year 1998 ultimate premiums are predicted to be $12 million. This depopulation is a result of residual market pricing programs and voluntary market competition.

As losses continue to come in at or very near expectations, loss ratios for the most recent policy years have remained very stable from the December 31, 1997 valuation. Despite the significant Pool depopulation and rate decreases in recent years, loss ratios have remained relatively consistent across policy years, as well. Since Policy Year 1992, low loss ratios have helped produce moderate operating gains. The servicing carrier bid process, since its implementation on January 1, 1995, has further bolstered these positive results. Operating gains have been on the decrease though, primarily due to the shrinking Pool volume.

Arkansas Policy Year Financial Results Through Fourth Quarter 1998
(Projected to Ultimate)

Policy Year	Written Premium (000s)	Incurred Losses Includes IBNR (000s)	Loss Ratio	Net Operating Gain/(Loss) (000s)
1998	12,367	6,171	0.499	1,950
1997	23,521	9,949	0.423	7,089
1996	37,655	15,654	0.416	10,622
1995	63,563	22,461	0.353	22,804
1994	104,651	40,369	0.386	27,856

Take-Out Credit Program

The Arkansas Take-Out Credit Program provides a financial incentive for insurers when they remove employers from the residual market by providing coverage for those employers in the voluntary market. Credits keep such voluntary writings from increasing an insurer's Plan participation base.

Program Details

Effective Date	Length	Type	Credit
4/1/92	3 years	Plan	1.5:1 all premium—generic program

Program Results

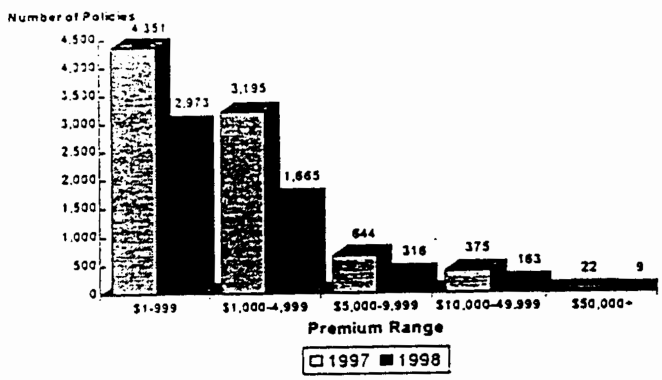
Calendar Year	Number of Participating Carriers	Number of Policies	Total Credit Amount
1998	26	2,162	$ 7,684,928
1997	30	1,779	$10,158,606
1996	51	1,482	$23,596,348
1995	49	2,396	$41,882,600
1994	46	1,045	$35,411,927
1993	34	600	$22,358,005

Assigned Risk Profiles

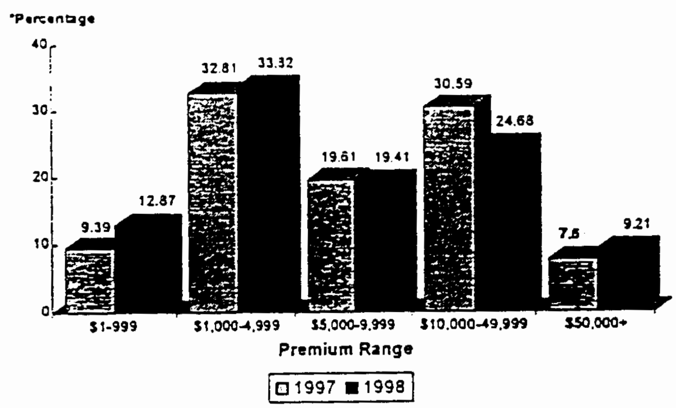
The exhibits in this section display various comparisons of the distribution of assigned risk policies and premiums in the state of Arkansas. All data was collected on an any-exposure basis including cancelations (prorated) for Policy Years 1998 and 1997.

Period		Total Policy Count	Total Premium
1997	New	2.012	$ 3.520,323
	Renewal	6.575	18.953.307
	Total	8.587	$22.473,630
1998	New	3.071	$ 5,797,534
	Renewal	2.057	5.270,834
	Total	5.128	$11.068,369

Distribution of Arkansas Assigned Risk Policies

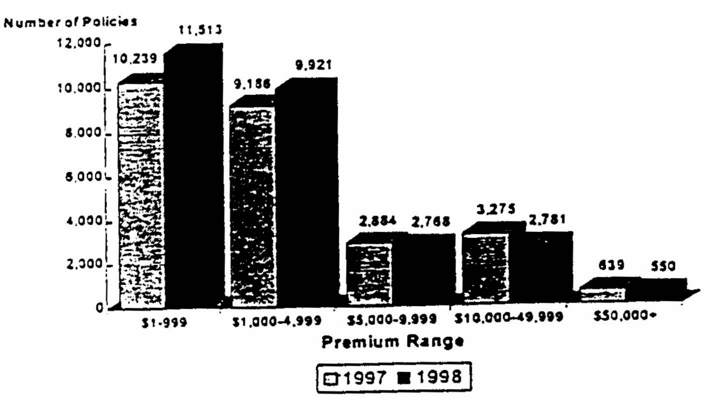


Distribution of Arkansas Assigned Risk Premium

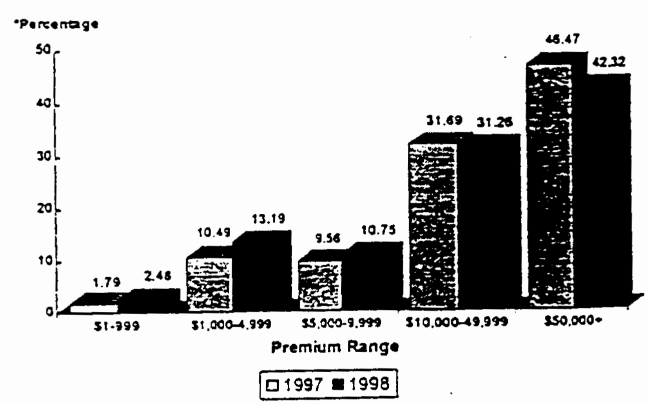


* Due to rounding, percentages may not equal 100.

Distribution of Arkansas Voluntary Policies



Distribution of Arkansas Voluntary Premium



* Due to rounding, percentages may not equal 100.

Classifications

The following exhibits show the top ten classification codes in Arkansas by premium and frequency for the residual market. All data was collected on a dominant state basis including cancelations (prorated) for Policy Year 1998.

Top Ten 1998 Assigned Risk Classification Codes by Premium

Classification Code	Premium Amount ($)	Classification Description
5645	810,885	Carpentry—Detached One or Two Family Dwellings
2702	553,383	Logging or Lumbering & Drivers
7423	450,175	Aircraft or Helicopter Operation: All Other Employees & Drivers
2759	323,551	Pallet, Box or Box Shook Mfg. Wooden
4034	305,653	Concrete Products Mfg. & Drivers
6217	305,560	Excavation & Drivers
8380	266,172	Automobile Service or Repair Center & Drivers
7228	234,803	Trucking: Local Hauling Only—All Employees & Drivers
0083	215,677	Farm: Cattle or Livestock Raising NOC & Drivers
3632	214,062	Machine Shop NOC

Top Ten 1998 Assigned Risk Classification Codes by Frequency

Classification Code	Count	Classification Description
5645	479	Carpentry—Detached One or Two Family Dwellings
8810	409	Clerical Office Employees NOC
8832	256	Physician & Clerical
8017	160	Store: Retail NOC
9082	151	Restaurant NOC
8820	119	Attorney—All Employees & Clerical, Messengers, Drivers
9015	108	Buildings—Operation by Owner or Lessee or Real Estate Management Firm: All Other Employees
8380	104	Automobile Service or Repair Center & Drivers
6217	99	Excavation & Drivers
7423	93	Aircraft or Helicopter Operation: All Other Employees & Drivers

Top Ten 1998 Voluntary Classification Codes by Premium

Classification Code	Premium Amount ($)	Classification Description
7229	11,158,196	Trucking: Long Distance Hauling—All Employees & Drivers
2702	5,251,356	Logging or Lumbering & Drivers
3724	4,080,165	Machinery or Equipment Erection or Repair NOC & Drivers
8380	3,812,880	Automobile Service or Repair Center & Drivers
5190	3,219,943	Electrical Wiring—Within Buildings & Drivers
9082	2,700,144	Restaurant NOC
3076	2,689,515	Fireproof Equipment Mfg.
3824	2,377,637	Automobile, Bus, Truck or Trailer Body Mfg.: NOC
5183	2,355,749	Plumbing NOC & Drivers
8868	2,184,357	College: Professional Employees & Clerical

Top Ten 1998 Voluntary Classification Codes by Frequency

Classification Code	Count	Classification Description
8810	1,449	Clerical Office Employees NOC
8832	1,397	Physician & Clerical
8380	1,049	Automobile Service or Repair Center & Drivers
8868	1,012	College: Professional Employees & Clerical
9082	934	Restaurant NOC
8017	919	Store: Retail NOC
5190	431	Electrical Wiring—Within Buildings & Drivers
5645	421	Carpentry—Detached One or Two Family Dwellings
9015	407	Buildings—Operation by Owner or Lessee or Real Estate Management Firm: All Other Employees
5183	340	Plumbing NOC & Drivers

Customer Service Center Update

The Customer Service Center consists of three units: Customer Service, Experience Rating and Assigned Risk. The Customer Service Unit is made up of several teams of professional consultants who handle phone inquiries and correspondence on issues pertaining to experience modifications, classifications, rates, data reporting, software support, billing, as well as a variety of NCCI products and services. The Experience Rating Unit has the primary responsibility for the production of interstate and intrastate experience ratings. The Assigned Risk Unit is responsible for determining eligibility for applicants seeking coverage through NCCI's Workers Compensation Insurance Plans. This unit also provides other related services such as handling of disputes, state-specific item filings and circulars and the management of the carrier assignment mechanism.

In 1998, the Customer Service Unit received approximately 650,000 calls. Over 85 percent of these calls were answered in less than 20 seconds. Additionally, over 100,000 pieces of mail, fax and Internet requests were responded to in an average of three days.

Similarly, Experience Rating achieved superior results in 1998. In the month 90 days prior to the effective date, 494,894 experience modifications were produced and 83 percent were mailed. In the month 60 days prior to the effective date, 509,861 experience modifications were produced and 97 percent were mailed.

The Assigned Risk Unit received approximately 88,000 phone calls during the year with 95 percent of the calls answered in less than 20 seconds. The unit also received 48,000 applications to process in 1998. By year-end, the average turnaround time for the processing of these applications was less than six days.

The exhibit below indicates First Quarter 1999 and 1998 Assigned Risk Unit application processing accomplishments for Arkansas.

	Arkansas First Quarter 1999	Arkansas First Quarter 1998	Arkansas Calendar Year 1998	Countrywide Calendar Year 1998
Total applications received	222	922	3,179	47,785
Total applications refunded	27	82	306	5,380

RMAPS℠ Online Application Service

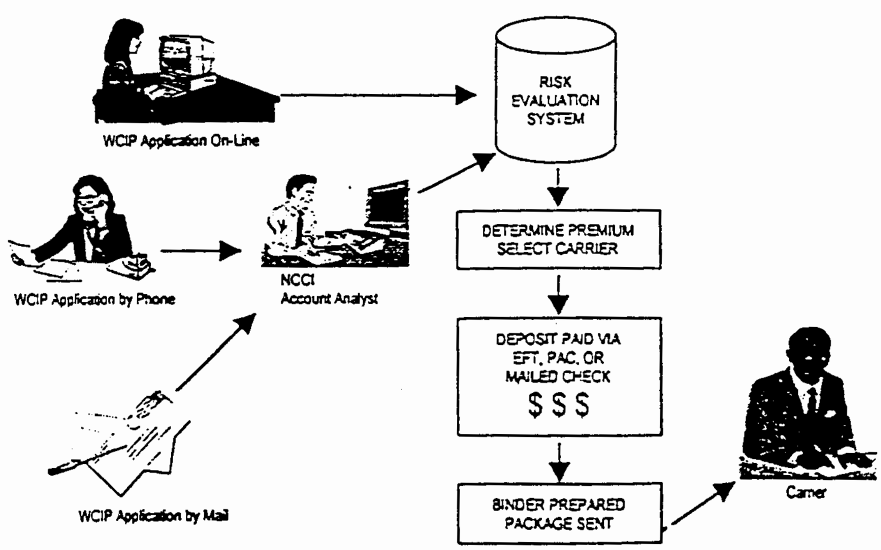
The National Council on Compensation Insurance, Inc. (NCCI) is pleased to introduce its new electronic interface for the Residual Market Application Processing System—*RMAPS℠* **Online Application Service.**

This service is now available at no charge to producers writing business in the residual market under NCCI's state-approved Workers Compensation Insurance Plan (WCIP). Through this Internet-based service, producers can submit assigned risk WCIP applications online. Upon successful submission, customers will immediately receive a confirmation code and application identification number for reference.

The many benefits of using NCCI's *RMAPS℠* **Online Application Service** include:

- No specific hardware requirements or difficult and time-consuming software installation. All a customer needs is an Internet Service Provider (ISP) and a browser (version 3.0 or higher recommended).
- ***RMAPS℠* Online Application Service** provides easy-to-use data entry screens to enter application information.
- Customers may submit applications to NCCI at their convenience, during normal customer service center hours.
- Upon successful transmission, customers receive a confirmation code and application identification number immediately from NCCI, assuring them that the application has been received.
- Customers can work online and reduce the need for hard copy forms.
- ***RMAPS℠* Online Application Service** saves you time and money by eliminating mailing costs and possible delivery delays.
- Works great in conjunction with the other electronic features of the ***RMAPS℠* Service** such as the ACH (Automated Clearing House) and PAC (Preauthorized Check) deposit premium payment options.
- There are no fees charged by NCCI for the use of ***RMAPS℠* Online Application Service.** Charges associated with Internet access are determined by an individual's ISP agreement.

To learn more about ***RMAPS℠* Online Application Service,** call NCCI's Assigned Risk Department at 800-**NCCI** 1-2-3 (800-622-4123) or visit us online at **www.ncci.com.**



Collection/Indemnification

Uncollected premium volume reported to NCCI's Residual Market Administration Division (RMCIA) continued to decline in 1998. This decline of more than 40 percent in 1998 comes after a 30 percent decline in 1997 over 1996. Servicing carrier requests for indemnification of litigation expenses significantly increased in 1998. This was due in large part to carriers' active pursuit of premium that may have been concealed by fraud and/or misrepresentation.

The automation of the uncollected premium reporting continues to provide great benefits to both carriers and NCCI's Residual Market staff. Among the benefits for carriers are ease and efficiency in reporting. The largest RMCIA benefits include more effective management of uncollectible accounts by staff. Staff continuously works to improve the system. The automation of reporting has also resulted in better cross-referencing of ineligible risks by the system, thereby tracing and resulting in the collection of many dollars of previously uncollected premium.

RMCIA has been using a tracking system for a year now with great success. The system affords us the opportunity to track and cross-reference the Pool's premium collection cases with the indemnification and fraud cases, which also allows us to be more proactive in managing the Pool's cases.

Arkansas Uncollectible Premium

The following shows a comparison of gross written premium and uncollectible premium reported in Arkansas and in the National Pool for Policy Years 1992–1997, valued as of March 31, 1999.

	Gross Written Premium	Uncollectible Premium	Percentage
Arkansas	$ 538,650,548	$ 16,152,305	3.00%
National	$12,634,339,079	$543,875,430	4.30%

NCCI Initiatives and Results

Remediation Program

The Two-Tiered Remediation Program identifies servicing carriers that are not performing satisfactorily by requiring additional levels of reporting and oversight as well as financial penalties. In 1998, for National Pool states only, 1 carrier was placed on tier one remediation, thereby requiring additional levels of oversight. Under tier two, 14 carriers were assessed penalties totaling approximately $62,700. These penalties were used to offset administrative expenses.

Assigned Risk Programs

Over the years, assigned risk rating programs have been developed to encourage employers to maintain safe workplaces and seek coverage through the voluntary market. The Arkansas assigned risk rating programs applicable during 1998 are described below. Arkansas also uses a differential factor to establish a difference between the voluntary rates or pure premiums and the assigned risk rates

Effective Date	Program	Description
2/1/92	Removal of Premium Discounts	Removes all premium discounts available to assigned risk policies.
3/1/94	Merit Rating	Premium adjustment applicable to policies with annual premium less than the amount to qualify for experience rating. Based upon the number of claims of the insured during a specified time period.
3/1/94	Alternate Preferred Plan	Premium adjustment for those eligible employers that have carrier workers compensation coverage for at least four complete policy years and have better than average loss experience.
3/1/94	Tabular Adjustment Program	Premium adjustment applicable to the standard premium based upon the employer's experience rating modification factor.
1/1/98	Managed Care Arrangement Premium Credit Program	Premium credit available to any residual market employer that utilizes a certified managed care arrangement.

Residual Market Workers Compensation Premium Algorithm (RM-W-8022)

This item filing was approved in Arkansas to be effective July 1, 2000. It establishes a state premium algorithm in NCCI's ***Basic Manual for Workers Compensation and Employers Liability Insurance*** to provide guidance in residual market premium computation.

Paid Loss Ratio Incentive Program

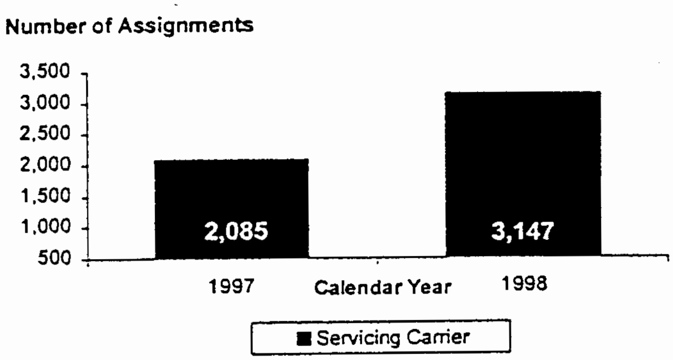
This program compares an individual carrier's paid loss ratio to the average paid loss ratio of its peer group on a state-by-state basis and provides financial incentives or disincentives (penalties) depending on results. Each policy year is evaluated at five annual year-end points. The table below summarizes the results for Arkansas using data as of December 31, 1998. It shows the number and dollar amount of indicated incentives and disincentives. The cash transactions with the carriers are settled in 20 percent increments depending on the evaluation number of the policy year. For example, for Policy Year 1994, the cash settled at December 1998 equals 80 percent of the total indicated incentive (or disincentive) less the amounts paid to (or by) the carrier as of December 1997. Note that Policy Year 1993 is at its fifth and final evaluation.

Policy Year	Evaluation Number	Total Indicated Incentives		Total Indicated Disincentives		Cash Settlements as of 12/98
		Number	Amount	Number	Amount	
1993	5	0	$ 0	1	$ (45,278)	$(27,455)
1994	4	3	82,917	2	(183,106)	(3,192)
1995	3	1	49,028	2	(44,677)	(4,828)
1996	2	0	0	1	(14,767)	(193)
1997	1	1	388	1	(10,720)	(2,066)
Total		5	$132,333	7	$(298,548)	$(37,734)

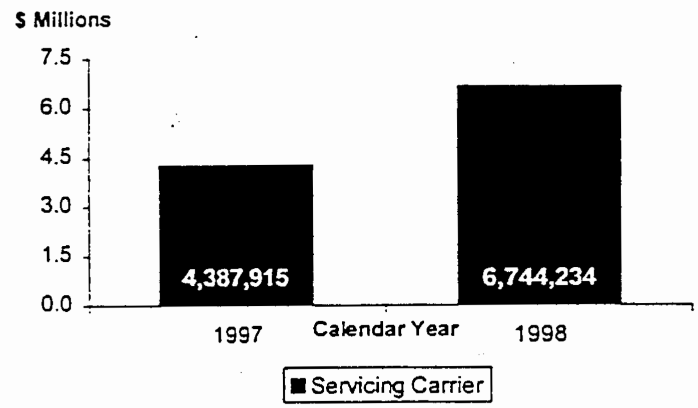
Assignment Mechanism

In Arkansas, NCCI ensures the equitable distribution of assigned risk business among the servicing carriers within the National Workers Compensation Reinsurance Pool. Each carrier has a quota (volume of business to be assigned) that is awarded through an objective bidding process. The bar charts display the distribution of new assignments and premium in Arkansas. The information on the number of assignments was calculated on a dominant state basis, while the premium was calculated on an any-exposure basis.

Assignment Distribution



Premium Distribution



1999 Servicing Carriers

The following insurance carriers have been selected through NCCI's servicing carrier bid process to service Arkansas policies reinsured by the National Workers Compensation Reinsurance Pool. These servicing carriers must adhere to performance standards set forth by NCCI.

- Commercial Union Insurance Co.
- Hartford Underwriters Insurance Co.
- Travelers Indemnity Co.

1999 Direct Assignment Carriers

The Arkansas Workers Compensation Insurance Plan does not provide the option of direct assignments. All licensed insurance carriers in Arkansas must subscribe to the Articles of Agreement and become part of the National Workers Compensation Reinsurance Pool.

Whom to Contact

As part of NCCI's commitment to provide better customer service, we have supplied a list of contacts and the areas they service to meet your specific needs.

For Information On	Contact	Telephone
Assigned risk application requirements and procedures, status and binding of coverage, assigned risk plans and assigned risk policies	Customer Service Center—Assigned Risk Unit Darrell McGee, Director Assigned Risk Unit e-mail: darrell_mcgee@ncci.com	800-622-4123 800-622-4123 ext. 6207
Resolving customer/stakeholder residual market issues and disputes	Sammye Wilson Regional Team Leader e-mail: sammye_wilson@ncci.com or Dawn Ingham Assigned Risk Team Leader e-mail: dawn_ingham@ncci.com	501-834-9123 800-622-4123 ext. 6248
State legislative issues, rate filings, state item filings or political developments	Cathy S. Booth State Relations Executive e-mail: cathy_booth@ncci.com	205-655-2699
New product information, product demonstrations, custom data products, software products and affiliation information	Don White Affiliate Services Executive e-mail: don_white@ncci.com	561-997-4305
Experience rating, classification questions, ownership rulings, inspection and test audit services, as well as to order publications, manuals, standard data products, ***InsNet*® *Online***, seminars and workshops	Customer Service Center Michael Spears, Director Customer Service Unit e-mail: michael_spears@ncci.com and Jeff MacLaughlan, Director Experience Rating Services e-mail: jeff_maclaughlan@ncci.com	800-622-4123 561-989-6100 561-989-6514

Glossary of Residual Market Terms

Any-Exposure—Regarding multistate policies, this theory attributes the policy and related state premium to each state on the policy. For example, a policy providing coverage in South Carolina, Georgia and Alabama with state premiums of $25,000, $52,000 and $11,000, respectively, would be counted as a South Carolina policy with $25,000 in premium, as a Georgia policy with $52,000 in premium and as an Alabama policy with $11,000 in premium.

Assigned Carrier—The insurer that has been assigned to provide coverage to an employer that has applied for workers compensation insurance pursuant to a Workers Compensation Insurance Plan. An assigned carrier can be either a servicing carrier or a direct assignment carrier.

Calendar Year—The 12-month period beginning January 1 in which a transaction either occurred or was included in the financial statements, irrespective of the contractual dates of the policies to which the transactions relate and the dates of the accidents.

Direct Assignment Carrier—An insurance company authorized by the state's insurance department to write and service assigned risk business directly with full responsibility for the financial results of the policies issued.

Dominant State Theory—Regarding multistate policies, this theory attributes the policy and entire premium to the state on the policy with the highest premium. For example, a policy providing coverage in South Carolina, Georgia and Alabama with state premiums of $25,000, $52,000 and $11,000, respectively, would be counted as a Georgia policy with $88,000 in premium.

Incurred Losses—Calendar year incurred losses equal paid losses plus the change in case and IBNR reserves during the 12-month period in question. Policy year incurred losses reflect paid losses, case reserves and IBNR reserves for policies written in a particular policy year. Incurred losses match accidents that have occurred with premiums that have already been earned.

Loss Ratio—The ratio, expressed as a percentage, of total incurred losses to total premiums in a given period.

National Workers Compensation Reinsurance Pool (NWCRP or Pool)—A contractual reinsurance pool mechanism among participating workers compensation insurers, which affords such insurers an option for complying with state Workers Compensation Insurance Plan or other assigned risk program requirements by sharing in the operating results arising out of certain policies written pursuant to such Plans or Programs. The National Pool operates in AK, AL, AR, AZ, CT, DC, DE, GA, IA, ID, IL, IN, KS, NC, NH, NJ, NV, OR, SC, SD, VA and VT.

Operating Gain/(Loss)—The financial statement presentation that reflects the excess of earned premium over incurred losses less all operating expenses and plus all investment income.

Policy Year—The year of the effective date of the policy. Policy year financial results summarize experience for all policies with effective dates in a given calendar year period.

Possible Renewals—A calculated figure representing a percentage of canceled or expired policies that NCCI still expects to be reinstated or renewed.

Premiums Written—The premium charged by an insurance company for the period of time and coverage provided by an insurance contract.

Reinsurance Pool—A financial agreement among participating insurers to share in the experience of certain assigned risks, thereby reducing both administrative costs and annual fluctuations in the liability of participating insurers arising from the operation of state insurance plans.

Glossary of Residual Market Terms (Cont'd)

Residual Market—State insurance plans which provide employers that are unable to secure coverage in the voluntary market with a means of insuring their operations through a designated insurance carrier. Also known as "involuntary market," "assigned risk market," or "market of last resort."

Residual Market Share—The ratio of assigned risk premium (Pool plus Direct Assignment) to the total direct written premium.

Servicing Carrier—An insurance company authorized to write and service assigned risk business on behalf of the participating companies of a pooling arrangement, of which it is also a participating company.

Workers Compensation Insurance Plan (WCIP or Plan)—A program established by state insurance regulatory authorities and developed by NCCI whereby workers compensation insurance may be secured by eligible employers unable to secure such coverage in the voluntary market.