

BACKGROUND PAPER 01-1

**A STUDY OF
SUBSEQUENT INJURY FUNDS**

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September 2000

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A STUDY OF SUBSEQUENT INJURY FUNDS

INTRODUCTION

A Subsequent Injury Fund (SIF) provides a method of spreading the costs associated with an employee's second or "subsequent" injury, which is incurred on the job, across all employers in a given state. Prior to the creation of SIFs, when an injury in the course and scope of employment occurred to a previously injured employee—resulting in an increased or perhaps permanent total disability—either the worker was penalized by having any compensation benefits limited to the disability directly associated with the second injury, or the employer was penalized by having to pay for the combined resulting disability. Therefore, prior to the advent of SIFs, the latter possibility provided a strong incentive for employers not to hire or retain physically impaired employees.

The Purpose of SIFs

When originally created, SIFs were designed to achieve two major objectives:

1. To encourage employers to hire and retain workers who have preexisting conditions; and
2. To provide economic relief to employers who hire workers with preexisting conditions should the employee sustain a subsequent injury in the course and scope of employment.

Through the utilization of a SIF, an employer or insurance carrier pays only the industrial insurance benefits associated with the subsequent injury and is reimbursed from the SIF for that portion of the compensation due because of the combined effect of the subsequent injury and the preexisting condition. Rather than charging the total experience of that injury against the employer, the costs of the subsequent injury are paid from the SIF and spread among all employers operating in the state through a cost-sharing or assessment mechanism.

How SIFs Benefit Employers

A privately insured employer who qualifies for SIF reimbursement receives economic relief through an adjustment to its record of losses. The expenses associated with an employee's "subsequent" injury are removed from the employer's record. Through the removal of a loss from its account, an experience-rated employer can achieve a lower experience modification factor and pay less premium. On the other hand, a self-insured employer benefits directly from SIFs through a cash reimbursement. Economic relief for a self-insured employer is not contingent on whether it is experience rated.

BACKGROUND

Since the first SIF was created in 1916 in New York, the funds have played a significant role in the history of workers' compensation by providing economic relief to employers who hire workers with preexisting conditions when a subsequent injury occurs. However, in recent years the need for SIFs has come under question, as groups in support of and opposition to the funds have come forward. Today many states, including Nevada, are evaluating whether SIFs are operating as originally intended. A number of states have already elected to eliminate their SIFs.

Support for and Opposition to SIFs

Several national industry organizations such as the American Insurance Association (AIA), the National Council of Self-Insurers, the Insurance Institute of America, and the Unemployment and Workers' Compensation (UWC), are supporting the elimination of SIFs. In particular, the AIA recommends that all states abolish SIFs¹ because:

1. The funds deviate from the principle that an employer's costs should be internalized;
2. The funds have not met their objective of promoting the hiring of disabled workers;
3. Many funds have accumulated large unfunded deficits; and
4. The funds create administrative costs and disputes and promote attorney involvement.

Other organizations have come forward supporting the preservation of SIFs. Locally, the Nevada Chapter of the Associated General Contractors of America recommends that Nevada's SIFs be retained.² The Chapter cites the economic relief provided by SIFs as the primary reason for maintaining the existing funds.

¹ See Appendix A to this document, a position statement dated April 1997, from the American Insurance Association, recommending the elimination of SIFs.

² See Appendix B to this document, a letter dated August 7, 2000, from the Nevada Chapter of the Associated General Contractors of America.

National Trends

Virtually every state, at one time or another, has enacted some form of SIF legislation. However, in recent years there has been a growing trend among states to reevaluate SIFs in light of arguments that the funds no longer meet the original intent. By 1999, the following 16 jurisdictions eliminated or phased out their SIFs:

Alabama	Florida	Minnesota	Rhode Island
Colorado	Kansas	Nebraska	South Dakota
Connecticut	Kentucky	New Mexico	Utah
District of Columbia	Maine	Oklahoma	Vermont

While various states have elected to eliminate their funds and several national organizations have come forward supporting the abolishment of SIFs, many states have also reviewed their funds and decided to retain them. The public policy debate on this issue continues to focus on whether the funds should be eliminated or retained.

The State of South Carolina is among the states that have elected to retain their SIFs.³ According to Doug Crossman, Director of South Carolina's Second Injury Fund, the South Carolina fund was retained because it has been successful in protecting employers from expensive claims resulting from additional injuries to workers with prior disabilities.

History of SIFs in Nevada

In 1973, Nevada was one of only four states that did not have a SIF. In that year, the Nevada Legislature created the state's first SIF with the enactment of Assembly Bill 27 (Chapter 468, *Statutes of Nevada 1973*). Similar to earlier funds created in other states, Nevada's SIF was intended to encourage employers to hire and retain injured workers without having to assume the liability of previous injuries.⁴

The original SIF was established under the Nevada Industrial Commission and was transferred to the Department of Industrial Relations (now the Division of Industrial Relations [DIR]) in 1981. In 1993, Senate Bill 316 (Chapter 265, *Statutes of Nevada 1993*) authorized the State Industrial Insurance System (SIIS) to administer its own subsequent injury program for the

³ Included in this report as Appendix C is a memorandum dated May 25, 2000, from Crystal M. McGee, Senior Research Analyst, Research Division, Legislative Counsel Bureau, to the Legislative Committee on Workers' Compensation, which provides information concerning how the South Carolina fund operates. Copies of the *1998-1999 South Carolina Second Injury Fund Annual Report* and the training materials, *A Step-by-Step Approach for Handling Second Injury Fund Claims*, referenced in the memorandum may be obtained by contacting the South Carolina Second Injury Fund at 803-798-2722.

⁴ Included in this report as Appendix D is a letter dated March 10, 2000, from Sue M. Matuska, Senior Deputy Legislative Counsel, and Kim Marsh Guinasso, Principal Deputy Legislative Counsel, Legal Division, Legislative Counsel Bureau, Carson City, Nevada, to Assemblyman David R. Parks, which provides a complete legislative history of major changes to various statutes governing SIFs in Nevada.

benefit of employers insured by the agency. Under the SIIS program, there was no longer a distinct SIF; SIIS simply adjusted the affected employer's account in the same manner that it would if there had been an actual monetary reimbursement from the old DIR-administered SIF. The DIR continued to administer the SIF for self-insured employers.

In 1995, control of the self-insured SIF was transferred to the Board for the Administration of the Subsequent Injury Fund for Self-Insured Employers (*Nevada Revised Statutes* [NRS] 616B.548) and a separate SIF was established for associations of public or private self-insured employers (NRS 616B.569). Effective July 1, 1999, a special revenue fund was created in the State Treasury known as the Subsequent Injury Fund for Private Carriers (NRS 616B.584). Statutory provisions concerning the SIIS program were repealed in 1999 with the enactment of Senate Bill 37 (Chapter 388, *Statutes of Nevada 1999*), which authorized the privatization of SIIS. Today, Nevada maintains three separate SIFs.⁵

While several administrative changes to Nevada's SIFs have been made in the past, prior legislation to eliminate the funds has failed to pass the Legislature. During 1992, in response to testimony that the DIR-administered SIF was no longer necessary because of the federal Americans with Disabilities Act of 1990 (ADA), the Legislative Committee on Industrial Insurance (created by Senate Bill 7 of the 1991 Session) recommended that the 1993 Legislature repeal the statutes relating to SIFs. This proposed legislation was embodied in Assembly Bill 268, which did not pass. A provision to this effect was also included in draft versions of Senate Bill 316.

During the 1997-1999 interim, the Legislative Committee on Workers' Compensation (NRS 218.5375) proposed phasing out Nevada's SIFs based on a recommendation of the American Insurance Association. The committee's proposal resulted in Senate Bill 42, which also did not pass.

POLICY ISSUES

Many issues regarding SIFs stem from complications that have arisen as employers and insurers work to understand how the ADA impacts SIFs. In addition, there is concern that smaller nonexperience-rated employers cannot reap the benefits of a SIF reimbursement. Finally, considerable attention has been paid to the distribution of SIF funds among Nevada's self-insured employers and whether that distribution is equitable.

SIFs and the ADA

With the enactment of the ADA, many opponents of SIFs claim that the funds no longer meet the intent of encouraging the hiring of disabled persons. The ADA makes it unlawful to

⁵ Appendix E to this report is a memorandum from Crystal M. McGee, Senior Research Analyst, Research Division, Legislative Counsel Bureau, to Assemblyman Lynn C. Hettrick, which provides information regarding the current operations of Nevada's SIFs.

discriminate in employment against a qualified individual with a disability. The job discrimination provisions of the ADA became effective in 1992 for all employers with 25 or more employees, and after July 26, 1994, they applied to all employers with 15 or more employees. The Act requires employers to provide “reasonable accommodation” to individuals with disabilities unless doing so would pose an undue hardship.

Many people believe that the ADA makes SIFs obsolete. This belief arose in part from uncertainty surrounding the scope of the ADA and from the current understanding of the role SIFs play in hiring workers with disabilities. The SIFs were viewed as providing incentives to hire workers who might not otherwise be considered for employment because of the fear that, if they received further injury, the cost of the aggregated disabilities might significantly increase the employer’s workers’ compensation premiums. With the advent of the ADA, employers would no longer be able to discriminate against workers with disabilities and, therefore, it was felt that there was no need to provide employers with incentives to do something they were now legally required to do.

The ADA poses a particular challenge for Nevada employers applying for SIF relief. Nevada state law requires that an employer must establish by written record that he had knowledge of the preexisting impairment at the time of hire or at the time the employee was retained when the employer learned of the preexisting impairment (NRS 616B.557, 616B.578, and 616B.587). This requirement, in conjunction with the ADA, creates a unique challenge for employers because the ADA prohibits all questioning concerning medical conditions or medical history from employment applications, interviews, and tests given to job applicants. An employer may not ask an applicant whether he or she has a disability, or inquire as to the nature or severity of any disability.⁶ However, employers can establish prior knowledge of the preexisting impairment through a post-employment questionnaire.⁷

Experience-Rated Employers

The experience-rating plan is a merit program designed to promote policyholder accident prevention and safety consciousness. The rating plan examines each policyholder’s incurred losses and compares those losses with the average losses for all the employers in the same industry. It is based on historical incurred losses and distinguishes each employer’s loss experience as better than, equal to, or worse than the industry average. If a policyholder’s experience is average, the modification factor is 1.00. A modification factor less than 1.00 provides a discount on premium, but a modification factor greater than 1.00 results in a

⁶ Included in this report as Appendix F is a memorandum dated March 30, 2000, from Crystal M. McGee, Senior Research Analyst, Research Division, Legislative Counsel Bureau, to Assemblyman Lynn C. Hettrick, which provides information on what programs certain self-insured employers in Nevada have in place to promote the hiring of disabled workers and how they document pre-existing conditions.

⁷ See pages 12 through 18 of Appendix G, a document titled “Subsequent Injury Funds (SIFs)” that provides more information on the implications of the ADA on SIFs.

higher premium. A policyholder's manual premium⁸ is multiplied by the experience modification factor to determine the standard premium due the insurer.

Following is a simplified hypothetical example designed to demonstrate the effect of experience rating.

Assume there are four employers in the same industry classification whose industrial insurance premium rate is \$1 for each \$100 of payroll. Each employer has reportable payroll of \$100,000. Employer A has low losses and an experience modification factor of .75. Employer B has average losses and an experience modification factor of 1.00. Employer C is not experience rated. Employer D has high losses and an experience modification factor of 1.25. The formula for calculating standard premium is:

$$\frac{\text{Reportable Payroll}}{100} \times \text{Risk Classification Premium Rate} \times \text{Experience Modification Factor} = \text{Standard Premium}$$

The standard premium each of the four hypothetical employers will pay is illustrated in the following table:

<i>Employer</i>	<i>Formula</i>	<i>Standard Premium</i>
Employer A (low losses)	$\frac{\$100,000}{100} \times \$1.00 \times .75$	\$750
Employer B (average losses)	$\frac{\$100,000}{100} \times \1.00×1.00	\$1,000
Employer C (not experience rated)	$\frac{\$100,000}{100} \times \1.00	\$1,000
Employer D (high losses)	$\frac{\$100,000}{100} \times \1.00×1.25	\$1,250

This example demonstrates how a SIF can become relevant to premium costs. If an experience-rated employer can have the costs of some of its claims paid by the SIF instead of being charged to the employer, thereby becoming a "low loss" employer like Employer A, the employer may be able to achieve a lower modification factor and pay less premium.

SIF Distribution Among Self-Insured Employers

Nevada is unique among states with SIFs in that it is the only state with a separate fund for self-insured employers, associations of self-insured employers, and private carriers. The SIFs for self-insured employers and associations of self-insured employers are administered separately, each by its own board. A review of the SIF for self-insured employers revealed that during Fiscal Years (FYs) 1996 through 1998, only 30 employers (or less than 10 percent

⁸ (Reportable Payroll/100) x Risk Classification Premium Rate = Manual Premium

of the fund's contributors) accessed the fund for reimbursement.⁹ Many of Nevada's policymakers agree that this distribution of SIF funds among self-insured employers appears inequitable. The Nevada Self-Insurers Association supports the elimination of SIFs for self-insured employers.¹⁰

CONCLUSION

As states, including Nevada, continue to evaluate their SIFs, the funds will remain a public policy issue in workers' compensation. The Legislative Committee on Workers' Compensation will continue its study of SIFs and other pertinent topics related to industrial insurance in the State of Nevada. Additional information regarding this and other workers' compensation topics may be obtained by contacting:

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Research Division
Legislative Counsel Bureau
401 South Carson Street
Carson City, Nevada 89701
Telephone: 775/684-6825
Facsimile: 775/684-6400

⁹ See Appendix H, a document titled "Subsequent Injury Analysis, FY 96-98" prepared by the Administrative Services Unit, Division of Industrial Relations, Nevada's Department of Business and Industry.

¹⁰See Appendix I, a letter dated April 12, 2000, from Sandra Simon, President, Nevada Self-Insurers Association, supporting the elimination of SIFs.

APPENDIX A

Position statement dated April 1997
from the American Insurance Association recommending the elimination of SIFs



**AMERICAN INSURANCE ASSOCIATION
LAW DEPARTMENT**

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SECOND INJURY FUNDS SHOULD BE ABOLISHED

States should abolish workers' compensation second injury funds, because second injury funds (1) deviate from the principle that an employer's costs should be internalized; (2) have not met their objective of promoting the hiring of disabled workers; (3) have accumulated large unfunded deficits; and (4) create administrative costs and dispute, and promote attorney involvement.

(1) Second injury funds deviate from the principle that an employer's costs should be internalized. An employer with no responsibility for injuries occurring in another employer's workplace should not subsidize that employer's losses. It is inequitable to shift costs to another employer who had no responsibility for the injury. Workers' compensation costs should be allocated to employers in accordance with the costs of injuries to their own employees. This assures that costs are distributed fairly, and encourages safety, prompt reemployment and prevention of fraud.

Second injury funds are especially unfair to small employers. Larger employers have more opportunity to benefit from second injury funds, because they experience considerably more claims. Nonetheless, small employers are assessed to cover these losses, although they may never have a loss qualifying for second injury fund coverage.

Furthermore, eliminating second injury funds will not adversely effect an employer's loss experience. Small business is not experience-rated; and experience is only partially predictive for other than the largest employers with significantly higher premiums (the higher the premium, the more actuarially predictive is experience and the greater weight that is given to such experience). Even for employers whose premium is sufficiently large so as to be fully experience-rated, second injury fund recoveries have little impact on experience. This is because the experience rating formula weights frequency (which SIF recoveries do not affect) more than severity; and severity (the net dollar cost of the injury) is unaffected by a second injury fund recovery.

(2) Second injury funds have not met their stated objective of promoting the hiring of disabled workers. In the decades since their creation, there is no demonstrable evidence that second injury funds have significantly influenced hiring decisions, nor influenced them to the degree that would justify retaining the funds, given

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their well-documented problems. They have been successful in spreading losses among all employers, but without more than a theoretical justification for second injury funds, socializing losses has become an end in itself.

AIA believes the ADA is a more direct, and thus certain, remedy for promoting employment of disabled workers, because it prohibits certain improper inquiries about the existence or nature of a disability prior to an employment offer. Even following an offer of employment, when an inquiry would not violate the ADA, a second injury fund gives an employer the incentive to inquire about a preexisting disability. This is so, because, some states require an employer to ascertain at time of hire whether an employee has a preexisting injury in order to qualify for second injury fund coverage of a subsequent injury. Even without a prior knowledge requirement, a second injury fund gives an employer at time of injury a powerful incentive to inquire into a claimant's medical history in order to hunt down a qualifying preexisting injury and spread the losses of any subsequent injury to other employers. Therefore, second injury funds can give an unscrupulous employer a pretext to inquiring into preexisting disabilities. Thus, in a perverse way, second injury funds may operate to *call attention* to disabilities.

Although the ADA does not cover employers with fewer than 15 employees, it is doubtful abolition of a second injury fund would have an effect on small employers' incentives to hire disabled individuals. This is because there is little, if any, demonstrable evidence the funds have had any impact on hiring decisions in the decades following their creation.

(3) Second injury funds have accumulated large unfunded deficits. Second injury funds are financed on a pay-as-you-go basis (generally through assessments on self-insured and insured employers). Many funds have expanded and become financial monsters, when rapidly rising workers' compensation costs have increased incentives to dump cases into the fund and raised the ultimate value of those cases. Connecticut's second injury fund was estimated to have \$6 billion in unfunded liabilities when it was repealed several years ago; Kentucky, over \$2 billion when repealed last year. Florida's is estimated to have over a \$4 billion deficit. For employers, the assessments required to pay these ever-rising liabilities will last for decades and constitute for all employers -- insured and self-insured -- an additional cost of workers' compensation simply to pay the future cost of injuries that have already occurred. Furthermore, in some states assessments have risen so high to meet cash flow obligations that states have limited the assessments on insured employers to fund current obligations (e.g., Florida, Massachusetts), forcing insurers to settle for amounts less than due and raising additional questions about the efficacy of second injury funds in preventing discrimination.

Furthermore, these unfunded liabilities have prompted the American Institute of Certified Public Accountants (AICPA) to propose that insurers and self-insured employers be required to accrue immediately for second injury fund liabilities, where assessments are based on paid losses. This proposal recognizes that payment for second injury fund losses is an unavoidable future obligation of all employers and cannot be avoided even if an insurer or employer ceases operations in the state. For these reasons, AIA recommends that assessments on insured employers be based on premium and collected outside the rate base (i.e., surcharge).

(4) Second injury funds generate transaction costs and disputes. Second injury funds typically are administered by state workers' compensation agencies. They require staff and other resources necessary to evaluate coverage, track payments and assessments, and provide for defense of the fund. These unavoidable costs are part of each employer's assessment.

Second injury funds also generate disputes, attorney involvement, and litigation. They introduce another party to the determination (the fund), adding another layer of dispute. In some states (e.g., Missouri, Oklahoma), the injured worker is required to file a separate claim for benefits through the fund, guaranteeing a separate proceeding and potential dispute (along with attorney involvement) on each second injury fund claim. Finally, incentives to "hunt" for a pre-existing injury to minimize an employer's direct financial obligation (while it shifts costs to other employers) encourage case-dumping at the expense of other employers and raise legal costs.

• • •

**AMERICAN INSURANCE ASSOCIATION
APRIL 1987**

APPENDIX B

Letter dated August 7, 2000, from the Associated General Contractors of America,
Nevada Chapter, to Assemblyman David R. Parks, Chairman,
Legislative Committee on Workers' Compensation



ADA CHAPTER
ited general contractors

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August 7, 2000

David Parks, Chairman
Committee on Workers' Compensation
Nevada Legislature
Carson City, NV 89701

Re: Subsequent Injury

Dear Mr. Parks:

The Nevada subsequent injury program currently offers protection to experience-rated Nevada employers from the impact of pre-existing disabilities or conditions on their employees who are injured on the job. The intent of our subsequent injury laws is to provide an incentive to hire people with disabilities by providing relief to their employers from unfairly high claim costs when they are injured.

One argument against the preservation of subsequent injury is that the Americans with Disabilities Act provides the necessary incentives to hire people with disabilities so subsequent injury is no longer needed. The ADA and subsequent injury are not the same. The ADA is designed to reduce obstacles to employment of people with disabilities requiring reasonable accommodation. It does not address any relief to employers whose disabled employees are injured. Like any other employee, people with disabilities are subject to on-the-job injuries. The costs of their accident claims may be greatly increased because of their pre-existing disabilities. The ADA may provide incentives to employers, but provides no financial relief when there is an on-the-job injury.

The ADA does not address a large segment of the working population: those individuals with a ratable disability who do not require reasonable accommodation. Many people have been injured in some way or have other pre-existing conditions and are still physically able to work in any job they choose. However, if they are injured on the job, the combined effect of the pre-existing condition and the on-the-job injury may result in greatly increased costs to their employers. The ADA offers nothing in these instances. However, Nevada's subsequent injury fund may provide relief to these employers.

Another situation not covered by the ADA is one in which the disability is misrepresented or concealed from the employer. When a disability is

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August 7, 2000
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misrepresented or concealed, there is not an opportunity for reasonable accommodation. The ADA is not applicable. However, if there is an on-the-job injury, the costs to the employer can be greatly increased. The Nevada subsequent injury program addresses this type of situation.

We believe that subsequent injury is a worthwhile program that should not be eliminated from Nevada's workers' compensation system. We submit for your consideration a list of claims for injured employees in circumstances where the subsequent injury fund has been accessed to provide needed relief to their employers.

Thank you for your consideration.

Sincerely,


Cheryl Blomstrom
Government Affairs Director

cc: Committee

AGC EMPLOYERS / SUBSEQUENT FUND CLAIMS FOR 1996-1999

Date	Medical Paid	Comp Paid	Total Paid	Med Reserve	Comp Reserve	Total Reserve	Total Incurred	Status
04/04	16,058.91	34,738.60	50,797.51	0.00	0.00	0.00	50,797.51	CLOSED
05/09	8,838.67	20,949.54	29,788.21	0.00	0.00	0.00	29,788.21	CLOSED
05/22	9,048.26	75,233.85	84,282.11	0.74	13,134.15	13,134.89	97,417.00	REOPEN
09/23	1,296.95	24,541.68	25,838.63	0.00	0.00	0.00	25,838.63	CLOSED
10/08	6,745.61	58,028.52	64,774.13	0.29	2,118.58	2,118.87	65,893.00	REOPEN
12/17	11,452.05	33,148.81	44,600.86	0.00	0.00	0.00	44,600.86	CLOSED
12/21	20,425.22	55,519.03	75,944.25	0.00	0.00	0.00	75,944.25	CLOSED
03/31	923.26	1,476.72	2,399.98	0.00	0.00	0.00	2,399.98	CLOSED
05/06	47,068.48	72,360.80	119,429.28	0.00	0.00	0.00	119,429.28	CLOSED
05/18	41,816.08	49,483.32	91,299.40	0.00	0.00	0.00	91,299.40	CLOSED
07/20	25,785.14	63,483.30	89,268.44	130,324.86	26,362.70	156,687.56	245,956.00	REOPEN
09/05	5,336.48	2,466.78	7,803.26	0.00	0.00	0.00	7,803.26	CLOSED
09/22	4,272.81	13,516.72	17,789.53	0.00	0.00	0.00	17,789.53	CLOSED
12/11	5,092.09	0.00	5,092.09	0.00	0.00	0.00	5,092.09	CLOSED
01/05	5,621.17	19,973.86	25,595.03	0.00	0.00	0.00	25,595.03	CLOSED
01/06	3,521.36	68,165.86	71,687.22	0.00	0.00	0.00	71,687.22	CLOSED
04/29	533.96	795.96	1,329.92	0.00	0.00	0.00	1,329.92	CLOSED
05/14	5,540.10	3,211.16	8,751.26	0.00	0.00	0.00	8,751.26	CLOSED
06/02	11,846.14	14,765.46	26,611.60	0.86	7,338.54	7,339.40	33,951.00	ACTIVE
05/19	27,385.12	22,570.46	49,755.58	22,532.88	22,425.54	44,958.42	94,714.00	ACTIVE
	TOTALS						1,116,077.43	

APPENDIX C

Memorandum of May 25, 2000, from Crystal M. McGee, Senior Research Analyst,
Research Division, Legislative Counsel Bureau, to the Legislative Committee on
Workers' Compensation, providing information concerning the
operation of South Carolina's Second Injury Fund

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MEMORANDUM

DATE: May 25, 2000
TO: Chairman and Members, Legislative Committee on Workers' Compensation
(Nevada Revised Statutes 218.5375)
FROM: Crystal M. McGee, Senior Research Analyst *CMC*
Research Division
SUBJECT: South Carolina Second Injury Fund

During the March 10, 2000, meeting of the Legislative Committee on Workers' Compensation, members of the committee requested information regarding the South Carolina Second Injury Fund. Specifically, the committee requested responses to the following questions:

- What criteria must employers in the state of South Carolina meet to qualify for reimbursement from the state's Second Injury Fund?
- What workers' compensation costs are reimbursable from the Second Injury Fund?
- What percent of South Carolina employers accessed the Fund in recent years?
- What mechanism is used for funding the Second Injury Fund?
- Does the South Carolina Second Injury Fund have a program to educate interested parties regarding the purpose of the Fund and how it can be accessed?

South Carolina Second Injury Fund

Similar to Nevada's subsequent injury funds, the Second Injury Fund functions within the South Carolina Workers' Compensation System. The Fund is designed to protect employers from monetary losses or increased workers' compensation insurance costs that they may incur from hiring an employee with a disability. The Fund is intended to protect employers from the

higher costs associated with an employee's injury when, combined with a prior injury or disability, it produces medical costs or a disability that is substantially greater than the accident alone would have produced.

Following is a response to each inquiry made by the committee.

What criteria must employers in the state of South Carolina meet to qualify for reimbursement from the state's Second Injury Fund?

Pursuant to Section 42-9-400 of the *Code of Laws of South Carolina*, an employer or insurance carrier must meet the following criteria to qualify for reimbursement from the Second Injury Fund:

1. The employee must have a prior permanent physical impairment of such seriousness as to constitute a hindrance or obstacle to obtaining employment or reemployment;
2. The employer must establish that he had knowledge of the permanent physical impairment at the time of hire or at the time the employee was retained after the employer acquired such knowledge; and
3. The employee is injured by an accident arising out of and in the course of employment resulting in compensation and/or medical payments for a disability that is substantially greater, by reason of the combined effects of the preexisting impairment and subsequent injury or by reason of the aggravation of the preexisting impairment, than that which would have resulted from the subsequent injury alone.

In addition to these criteria, South Carolina law provides that an employer may qualify for reimbursement from the Fund if it can prove that it did not have prior knowledge of the employee's preexisting physical impairment because the employee concealed the preexisting condition or the employee had no knowledge of it.

The South Carolina statute further provides a list of 34 impairments that are presumed to be permanent and of such seriousness as to constitute a hindrance to obtaining employment. The list of impairments ranges from epilepsy and diabetes to multiple sclerosis and muscular dystrophy. (See the enclosed brochure titled "South Carolina Second Injury Fund" for a complete listing for the impairments specified in statute.)

What workers' compensation costs are reimbursable from the Second Injury Fund?

Pursuant to Section 42-9-400 of the *Code of Laws of South Carolina*, in the first 78 weeks following the injury, 50 percent of medical benefits paid in excess of \$3,000 may be reimbursed to employers from the Fund if the qualifying criteria are met. All medical and compensation (partial wage replacement and funeral expenses when applicable) benefits paid after the first 78 weeks since the injury are reimbursable from the Fund.

What percent of South Carolina employers accessed the fund in recent years?

Enclosed is a copy of the 1998-1999 *South Carolina Second Injury Fund Annual Report*, provided by Linda Gail Deal, Director of Claims, South Carolina Second Injury Fund (telephone: 803-798-2722, ext. 122). From the annual report, the following statistics were derived concerning utilization of the Fund by private insurance carriers and self-insured employers in South Carolina:

Private Carriers Reimbursed from the Fund	65
Private Carriers Assessed to Finance the Fund	123
Self-insured Employers Reimbursed from the Fund	113
Self-insured Employers Assessed to Finance the Fund	225

Ms. Deal explained that the South Carolina State Accident Fund is a self-funded plan; therefore, in the figures provided above, the state-run workers' compensation program is included in the count for the self-insured employers.

Based on these figures, 52.8 percent of the private carriers that paid into the Fund accessed the Fund for reimbursement. With respect to self-insured employers, 50.2 percent of those who paid into the Fund received reimbursements. The annual report stated that 1,724 employers in the state benefited from a reimbursement from the Fund.

What mechanism is used for funding the Second Injury Fund?

On a continuing basis the South Carolina Second Injury Fund receives funding from two sources as provided in Section 42-7-310 of the *Code of Laws of South Carolina*. The first and, as Ms. Deal pointed out, the primary source of monies used to support the Fund comes from an assessment on all insurance carriers, self-insurers, and the State Accident Fund. At the end of each fiscal year, the Fund will collect, by assessment, an amount equal to 175 percent of the preceding year's total fund disbursement minus the Fund's net assets. (See page 10 of the 1998-1999 *South Carolina Second Injury Fund Annual Report* for a summary of the assessment levied on carriers in September 1999.)

Second, any monies paid to the South Carolina Workers' Compensation Commission for workers' compensation benefits owed to a deceased employee with no dependents or partial dependents must be used for funding the Second Injury Fund. However, according to Ms. Deal, over the years the statute pertaining to payment of benefits for deceased employees (*Code of Laws of South Carolina* Section 42-9-140) has evolved to the point where nondependent children and nondependent parents may receive these unpaid benefits. In the rare cases where a deceased employee has no dependents, living parents, spouse, children, or partial dependents, the death benefits will be paid to the Fund. Ms. Deal stated that funding from this source amounts to a minimal part of the Second Injury Fund's total funding.

Does the South Carolina Second Injury Fund have a program to educate interested parties regarding the purpose of the fund and how it can be accessed?

According to Ms. Deal, at least twice a year, the Second Injury Fund will conduct a training program designed to educate various groups about the Fund. The program is offered to insurers, self-insured employers, medical providers, attorneys, and other interested groups. The program provides information pertaining to the Fund, including claim procedures, assessment and reimbursement procedures, and legal procedures. Ms. Deal provided the enclosed training materials titled "A Step-by-Step Approach for Handling Second Injury Fund Claims" that are used during these educational programs.

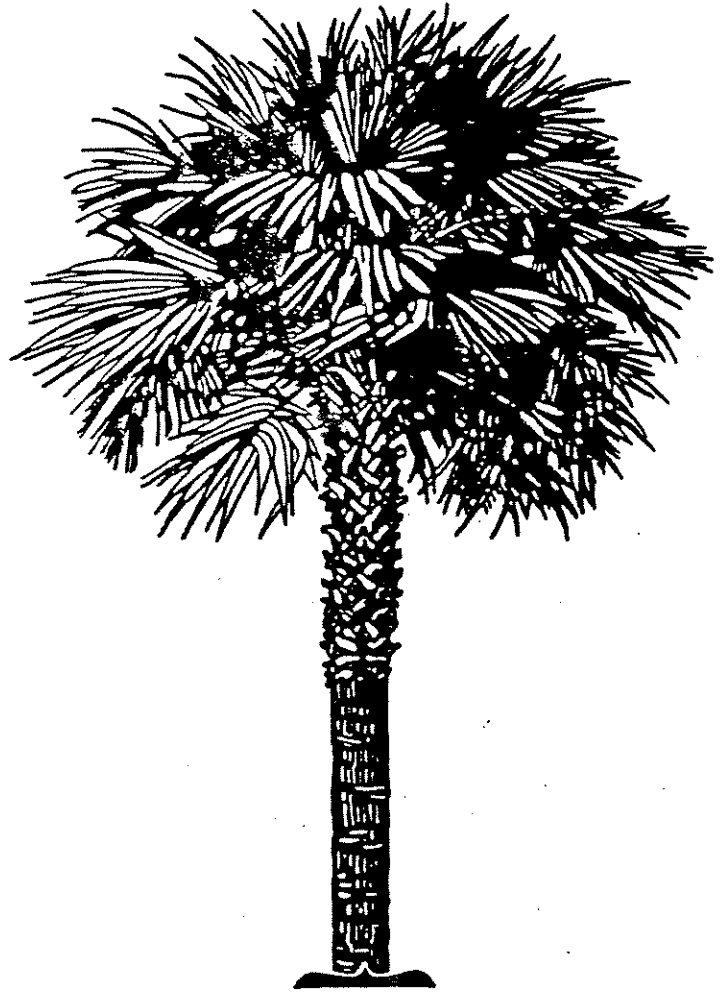
Ms. Deal pointed out that in addition to the training program offered by the Fund, she and Doug Crossman, Director of the South Carolina Second Injury Fund, often present information about the Fund at insurance-related conventions. Further, the South Carolina Workers' Compensation Commission conducts four training sessions a year. The sessions are open to insurers, self-insured employers, claims representatives, attorneys, medical providers, and other interested parties. At these sessions, Ms. Deal or Mr. Crossman briefly discuss the Second Injury Fund and respond to questions. At the conventions and the Commission's training sessions, the aforementioned brochure is distributed.

Concluding Remarks

I trust this information is useful. If you have any questions or need additional information, please contact me at 775/684-6825.

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**SOUTH CAROLINA
SECOND INJURY FUND**



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What is the Second Injury Fund?

The Second Injury Fund functions within the South Carolina Workers' Compensation System. It protects employers from having a higher cost for an employee's injury when that injury, combined with a prior injury or disability, produces medical costs or a disability that is substantially greater than the accident alone would have produced. This ensures that an employer is not made to suffer a greater monetary loss or increased insurance costs because it hires an employee who has a disability.

Quite often, fearing increased workers' compensation costs, employers are reluctant to hire or retain the disabled. The Second Injury Fund is designed to encourage employers to hire the disabled by limiting the cost of a workers' compensation claim when a disabled employee is injured on the job.

When properly placed, a disabled worker is no more likely to have job-related accidents than any other person.

Disabled workers have a better overall attendance record and are less likely to "job hop" than other workers.

Each time an unemployed disabled person obtains gainful employment, he becomes a tax payer rather than a tax user.

The Second Injury Fund can provide employers a way to reduce workers' compensation premiums when the employer or the employer's carrier recovers from the Fund.

What Are The Basic Pre- Requisites for Reimbursement?

- A. The employee must have a prior permanent physical impairment.
- B. The employer must meet a knowledge requirement.
- C. The employee must sustain a subsequent occupational injury.

1. Which results in the employer's liability for disability being substantially greater by reason of the combined effects of the new injury and the pre-existing condition, or by aggravation of the pre-existing condition, than that which would have resulted from the injury alone; or

2. Which most probably would not have occurred "but for" the presence of the prior impairment; or

3. Which results in the death of the employee and the death would not have occurred except for the pre-existing impairment.

What is a Prior Permanent Physical Impairment?

A. It is a condition resulting from any cause or origin which is both

1. Permanent and

2. Of such seriousness as to constitute a hindrance to obtaining employment or re-employment if the employee should be unemployed.

B. The following 33 conditions are presumed to meet the above requirements:

- 1) Epilepsy
- 2) Diabetes
- 3) Cardiac disease
- 4) Arthritis
- 5) Amputated foot, leg, arm or hand
- 6) Loss of sight of one or both eyes or partial loss more than seventy-five percent bilateral
- 7) Residual disability from poliomyelitis
- 8) Cerebral palsy
- 9) Multiple sclerosis
- 10) Parkinson's disease
- 11) Cerebral vascular accident
- 12) Tuberculosis
- 13) Silicosis
- 14) Psychoneurotic disability following treatment in a recognized medical or mental institution.
- 15) Hemophilia
- 16) Chronic osteomyelitis
- 17) Ankylosis of joints
- 18) Hyperinsulinism
- 19) Muscular dystrophy
- 20) Arteriosclerosis
- 21) Thrombophlebitis

- 22) Varicose veins
- 23) Heavy metal poisoning
- 24) Ionizing radiation injury
- 25) Compressed air sequelae
- 26) Ruptured intervertebral disc
- 27) Hodgkins disease
- 28) Brain damage
- 29) Deafness
- 30) Cancer
- 31) Sickle-cell anemia
- 32) Pulmonary disease
- 33) Mental retardation provided the employee's intelligence quotient is such that he falls within the lowest percentile of the general population. However, it shall not be necessary for the employer to know the employee's actual intelligence quotient or actual relative ranking in relation to the intelligence quotient of the general population.
- 34) Any other pre-existing disease, condition or impairment which is permanent in nature and which:
 - (a) Would qualify for payment of weekly disability benefits of seventy-eight weeks or more under Section 42-9-30 exclusive of benefits payable for disfigurement or
 - (b) Would support a rating of seventy-eight weeks or more of weekly disability benefits when evaluated according to the standards applied to workers' compensation cases in South Carolina, or combines with a subsequent injury to cause a permanent impairment rated at seventy-eight weeks or more under Section 42-9-30.

How Does an Employer Meet the Knowledge Requirement?

- A. If the case involves a known condition the employer must prove that he was aware of the employee's permanent physical impairment prior to the occurrence of the accident for which reimbursement is requested.

Examples of proof might include:

- 1. Copies of a post employment or retention physical;
or

- 2. Medical records or group insurance claim forms which establish the nature of the condition and that the employer has possession of these records prior to the latest accident; or
- 3. A signed statement made by the employer at the time of hire or retention confirming the pre-existing condition.

- B. If the case involves an unknown condition, the employer/carrier must prove that the employee was unaware of the condition prior to the accident for which reimbursement is requested.

Proof would be signed statement from the employee indicating he was unaware of the pre-existing condition.

- C. If an employee conceals information from his employer regarding a pre-existing permanent impairment, it will be necessary for an employer to prove an attempt was made prior to the latest accident, to obtain information from the employee regarding any pre-existing conditions. This might be a post employment application form which asks about disabilities.

What Establishes Aggravation, Substantial Increases, Etc.

It is recommended to employers or their carriers that they question the treating physician to determine whether a pre-existing condition aggravated or combined with the occupational injury to cause a substantial increase in liability.

What Determines a Reimbursable "But For" Claim?

It is recommended to employers or their carriers that they question the injured employee or witnesses about the facts of an accident to determine whether a pre-existing condition caused the accident or death.

An example of a reimbursable "but for" claim:

A completely deaf employee is struck and killed when he walks into the path of a forklift which is backing up. Witnesses to the accident state that the

employee paid no attention to the warning horn that was being sounded by the forklift. Thus, this accident would not have occurred if the employee had not been deaf.

What Benefits are Available?

- A. In most cases, an employer or carrier will be able to obtain reimbursement for:
1. All disability payments beyond the first 78 weeks of disability, and
 2. All medical payments beyond the first 78 weeks of medical care.
- B. In addition, if any employer or carrier can establish that his liability for medical payments is substantially greater by reason of the combined effects of the prior impairment and the subsequent injury or by reason of the prior impairment than that which would have resulted from the subsequent injury alone, then there will be reimbursement for 50 percent of all medical payments over \$3,000.00 during the first 78 weeks of medical care.
- C. When an employee becomes permanently and totally disabled because of the loss of a hand, arm, foot, leg or the vision of an eye in a subsequent injury and the employee had a pre-existing loss of a hand, arm, foot, leg or the vision of any eye, then the employee may be eligible for permanent and total disability benefits as defined in Section 42-9-410 of the South Carolina Workers' Compensation Act. The employer will be reimbursed in one of the following manners:
1. In those cases where the subsequent loss of member or eyesight was not caused or contributed to by any of the conditions defined as a permanent physical impairment, the employer will be reimbursed only for medical and disability benefits in excess of these benefits payable had the employee not had the prior loss of a hand, arm, foot, leg or vision of an eye.
 2. In those cases where the subsequent loss of member or eyesight was caused or contributed to by any of the conditions defined as a permanent physical impairment, the employer will be

reimbursed all benefits paid in excess of 78 weeks. (See Answer A and B of this question).

How is the Fund Financed?

At the end of each fiscal year, the Fund will collect by assessments to carriers, self-insureds and the State Workers' Compensation Fund an amount equal to 175 percent of the total disbursement of the Fund minus its new assets.

The following example will illustrate how individual assessments are determined.

If a specific carrier paid one percent of all benefits paid under the Workers' Compensation Act the previous calendar year, the carrier would be assessed one percent of the amount to be collected by the Fund.

In addition, in a death claim, if there are no dependents, living parents, spouse, children or partial dependents, death benefits will be paid to the Second Injury Fund.

When and How Should Claims Be Reported?

If an employer/carrier feels they have a workers' compensation claim in which the Second Injury Fund may be involved, they should notify the South Carolina Second Injury Fund, Winthrop Bldg., Ste. 119, 220 Executive Center Drive, Columbia, South Carolina 29210, as soon as practicable, but in no event later than after the payment of the first 78 weeks of compensation. A copy must be sent to the Workers' Compensation Commission.

The Second Injury Fund will, upon receipt of the notification of possible claim, forward the necessary claim forms.

This brochure is not intended to be a substitutionary for the statutory requirements of Section 42-9-400, and you should refer to that statute when making claims.

APPENDIX D

Letter dated March 10, 2000, from Sue S. Matuska, Senior Deputy Legislative Counsel, and Kim Marsh Guinasso, Principal Deputy Legislative Counsel, Legal Division, Legislative Counsel Bureau, to Assemblyman David R. Parks, which provides a complete legislative history of major changes to various statutes governing SIFs in Nevada

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March 10, 2000

Assemblyman David R. Parks
P.O. Box 71887
Las Vegas, Nevada 89170-1887

Dear Assemblyman Parks:

As chairman of the Legislative Committee on Workers' Compensation, you have asked for an overview of the legislative history on the statutes that have governed subsequent injury funds in the State of Nevada. This letter describes the major changes to the various statutes that have governed subsequent injury funds but does not point out every minor change made to each of the statutes. However, copies of any of the bills referenced in this letter can certainly be provided to you if you would like to review them. We have organized the letter by the years in which changes were made to the various statutes.

I. 1973.

The first subsequent injury fund was created by the Nevada Legislature in 1973 with the enactment of Assembly Bill No. 27 (chapter 468, Statutes of Nevada 1973, at page 693). The minutes from the standing committees that considered this bill indicate that its primary purpose was to encourage employers to hire workers who had already suffered a permanent physical impairment. The bill provided such encouragement by creating, within the state insurance fund, the subsequent injury account from which the Nevada Industrial Commission was to pay, at least in part, for any compensation required for a subsequent injury arising out of and in the course of employment that was substantially greater by reason of the combined effects of the preexisting impairment and the subsequent injury.¹ To obtain a credit against the subsequent injury account: (1) the

¹ All the statutes providing for coverage through a subsequent injury account or fund from 1973 to the current date have also provided such coverage if a death results in the course of employment and it is determined that the death would not have resulted except for the preexisting permanent physical impairment. Throughout the remainder of this letter, however, we will use the term "subsequent injuries" to refer to both injuries and deaths that occur subsequent to a preexisting permanent physical impairment.

"permanent physical impairment" had to support a rating of permanent impairment of 12 percent or more of the whole man if evaluated according to the latest edition of the American Medical Association Guides to the Evaluation of Permanent Impairment; (2) the employer had to establish by written records that the employer had knowledge of the "permanent physical impairment" at the time that the employee was hired or at the time the employee was retained in employment after the employer acquired such knowledge; and (3) certain procedural requirements had to be met. If the two conditions were met, the bill provided that the Nevada Industrial Commission would pay the compensation due and would establish rules and regulations for allocating such compensation costs between the employer involved and the subsequent injury account. The two sections created by Assembly Bill No. 27 were codified as NRS 616.426 and 616.427.

II. 1979.

NRS 616.427 was next amended in 1979 in the same bill that authorized employers to self-insure against liability for industrial accidents and occupational diseases. In Assembly Bill No. 84 (chapter 533, Statutes of Nevada 1979, at page 1035), the Legislature authorized certain employers to obtain a certification from the Commissioner of Insurance that would allow them to assume the responsibility for the payment of compensation pursuant to chapters 616 and 617 of NRS. Because any employer so authorized would no longer be obtaining compensation from the state insurance fund, it was necessary for the Legislature to provide for an assessment against such employers to cover the costs of paying for subsequent injuries suffered by their employees. Therefore, in Assembly Bill No. 84 (A.B. No. 84) the Legislature amended NRS 616.427 to add a new subsection that required the Commissioner of Insurance to establish, by regulation, a special revenue fund, known as the subsequent injury fund, and to establish the assessments to be paid into the fund by the self-insured employers. These changes were made to become effective on January 1, 1980. Therefore, in 1980, there existed a subsequent injury fund, which was funded only by self-insured employers, and the subsequent injury account which was an account in the state insurance fund. NRS 616.427 was also amended in A.B. No. 84 to specify that, in addition to the standard of demonstrating that the employer had knowledge of the employee's preexisting injury, an employer could also qualify for coverage for subsequent injuries if he could show, instead, that the employee "failed to report or denied the impairment on any written application which formed the basis of the employment."

III. 1981.

In 1981, new statutes governing compensation for subsequent injuries were created in Senate Bill No. 548 (chapter 642, Statutes of Nevada 1981, at page 1449). In Senate Bill No. 548 (S.B. No. 548), the Legislature reorganized the system of industrial insurance to, among many other things, create the State Industrial Insurance System. As pertains to the subsequent injury account, S.B. No. 548 repealed NRS 616.426, which had created the subsequent injury account, and enacted a new section, later codified as

NRS 616.4261, which created in the state treasury the subsequent injury fund. The Administrator of the Division of Industrial Insurance Regulation of the Department of Industrial Relations was designated as the administrator of the fund, the State Treasurer was designated as the trustee of the fund and the Director of the Department of Industrial Relations was required to assess all insurers, including the State Industrial Insurance System and self-insured employers, to provide the money for the subsequent injury fund. The Commissioner of Insurance was given the responsibility to review the establishment of the assessment rates. Also in S.B. No. 548, NRS 616.427 was amended to provide that subsequent injuries no longer be paid by the Nevada Industrial Commission but rather to provide that the cost for the injuries would be fairly allocated between the insurer and the subsequent injury fund in accordance with rules adopted by the Administrator of the Division of Industrial Insurance Regulation of the Department of Industrial Relations. NRS 616.427 was also amended to eliminate the requirement that the Commissioner of Insurance create and provide for assessments for a subsequent injury fund. This change was required because, as stated above, the Legislature had created a new section, NRS 616.4261, which created a new fund and required the Director of the Department of Industrial Relations to provide for assessments for that new fund. Finally, in order to properly account for the money in the old fund, the Legislature provided, in sections 344 and 345 of S.B. No. 548, for the transfer of money in the fund that had been created pursuant to NRS 616.427 and some money in the state insurance fund to the new fund created in NRS 616.4261. Thus, in 1981, there existed only one fund, the subsequent injury fund, which was funded by all insurers, including the State Industrial Insurance System and self-insured employers.

IV. 1985.

In 1985, NRS 616.427 was amended in Assembly Bill No. 25 (chapter 102, Statutes of Nevada 1985, at page 372) to specify that the permanent impairment rating of 12 percent that is required for payment or reimbursement from the subsequent injury fund must be based on the American Medical Association's Guides to the Evaluation of Permanent Impairment "in the form most recently published and supplemented before January 1, 1985." Assembly Bill No. 25 also made other technical changes.

V. 1987.

In 1987, in Assembly Bill No. 488 (chapter 201, Statutes of Nevada 1987, at page 452), the Legislature created a new section, later codified as NRS 616.428, that specified that, in addition to the standard of demonstrating that the employer had knowledge of the employee's preexisting impairment, reimbursement from the subsequent injury fund would be required if three conditions were met. The three conditions specified were: (1) the employee knowingly or willfully made a false representation as to his physical condition at the time he was hired by the employer; (2) the employer relied upon the false representation and this reliance formed a substantial basis of the employment; and (3) a causal connection existed between the false representation and the subsequent disability.

The Legislature also amended NRS 616.427 to delete the portion that had specified that reimbursement was required where the "employee failed to report or denied the impairment on any written application which formed the basis of the employment." Thus, the new standard for reimbursement set forth in NRS 616.428 was intended to replace the standard for reimbursement where an employee failed to report or denied impairment that had been set forth in NRS 616.427. Also in 1987, in Senate Bill No. 555 (chapter 415, Statutes of Nevada 1987, at page 944), the Legislature amended NRS 616.427 to require that if the conditions of that section are met, the full amount of compensation due must be charged to the subsequent injury fund. This language replaced the language that had said the compensation due must be fairly allocated between the insurer and the subsequent injury fund.

VI. 1991.

In 1991, NRS 616.427 was amended by three bills: Assembly Bill No. 422 (chapter 228, Statutes of Nevada 1991, at page 454); Senate Bill No. 7 (chapter 723, Statutes of Nevada 1991, at page 2388); and Assembly Bill No. 391 (chapter 191, Statutes of Nevada 1991, at page 362). The first bill, Assembly Bill No. 422, changed the version of the American Medical Association's (AMA's) Guides to the Evaluation of Permanent Impairment that was required to be used to determine if an employee had a "permanent physical impairment" which was eligible for reimbursement from the subsequent injury fund. The second bill, Senate Bill No. 7, required the Department of Industrial Relations to adopt regulations incorporating a certain version of the AMA's Guides to the Evaluation of Permanent Impairment. The third bill, Assembly Bill No. 391 (A.B. No. 391), changed the percentage of the permanent physical impairment that was required for a claim to be eligible for payment or reimbursement from the subsequent injury fund. Before the enactment of A.B. No. 391, an employee's injury had to support a rating of permanent impairment of 12 percent or more of the whole man pursuant to a certain version of the AMA's Guides to the Evaluation of Permanent Impairment. With the enactment of A.B. No. 391, an employee's injury only had to support a rating of permanent impairment of 6 percent or more of the whole man pursuant to the AMA's Guides. The legislative history behind this bill indicates that the purpose was to allow more claims to qualify for payment or reimbursement from the subsequent injury fund and, therefore, to further encourage employers to hire employees who had suffered previous permanent physical impairments. Also in 1991, NRS 616.4261 was amended by Senate Bill No. 264 (chapter 122, Statutes of Nevada 1991, at page 206) to specify that the subsequent injury fund was a "trust fund."

VII. 1993.

In 1993, the statutes governing the subsequent injury funds were significantly amended by Senate Bill No. 316 (chapter 265, Statutes of Nevada 1993, at page 657). Senate Bill No. 316 (S.B. No. 316) significantly revised the industrial insurance system in the State of Nevada, in part, to address a concern with the financial stability of the State Industrial Insurance System (the System). One of the changes made by S.B. No. 316 was to remove the System from the current subsequent injury fund and to provide that the System was to account for subsequent injuries within its accounting system and was not to charge any compensation paid for such injuries against the account of the employer involved. To accomplish this, a new section was created, which was later codified as NRS 616.4255, which stated that when an employee of an employer who is insured by the System has a permanent physical impairment and is subsequently injured in the course of his employment, the compensation due must not be charged to the employer's account. The new section contained the same requirement that the prior permanent physical impairment support a rating of permanent impairment of 6 percent or more of the whole man according to certain guidelines of the American Medical Association and that the disability be substantially greater by reason of the combined effects of the preexisting impairment and the subsequent injury. However, the new section was silent on what other conditions had to be met for an employer to qualify for the privilege of having no charge imposed against his account, such as employer knowledge of the preexisting impairment or that the employee made a false representation concerning the preexisting impairment.

To accompany the creation of the new section, NRS 616.4261 was amended twice in S.B. No. 316. The first amendment required that only self-insured employers were to be assessed for the subsequent injury fund. The second amendment which was to take effect on July 1, 1995, required that self-insured employers and associations of self-insured public or private employers would be assessed for the subsequent injury fund.² NRS 616.427 and 616.428 were similarly amended twice in S.B. No. 316. The first amendment limited the eligibility for payment or reimbursement for appropriate subsequent injuries from the subsequent injury fund to self-insured employers. The second amendment, which was to take effect on July 1, 1995, expanded the eligibility for such payment to self-insured employers and associations of self-insured public or private employers. Finally, to account for the money which had been deposited into the subsequent injury fund by the System and the self-insured employers a section was enacted in S.B. No. 316 which provided:

1. Payments for compensation made from the subsequent injury fund for any claim filed by an injured employee insured by the state industrial insurance system must terminate on [June 18, 1993], and any

² Formation and operation of associations of self-insured public and private employers was authorized in S.B. No. 316 but was not made to become effective until July 1, 1995.

future charges for such a claim must be made by the system pursuant to the procedures established pursuant to section 83 of this act.

2. As soon as practicable after [June 18, 1993], the director of the department of industrial relations shall cause to be conducted an audit of the subsequent injury fund and return to the state industrial insurance system any excess money in the fund in an amount equal to the system's portion of the assessments paid into the fund pursuant to NRS 616.4261. Any money received by the system pursuant to this subsection must be deposited in the state insurance fund.

Section 291 of S.B. No. 316 (chapter 265, Statutes of Nevada 1993, at page 807) (emphasis added). Thus, this section required that a certain amount of money that had been contained in the subsequent injury fund be returned to the System. In a memo addressed to an employee of the Research Division of the Legislative Counsel Bureau, the former Administrator of the Division of Industrial Relations informed the Legislature that the amount that was transferred to the System pursuant to section 291 of S.B. No. 316 was approximately 9 million dollars. Thus, with the enactment of S.B. No. 316, there existed a subsequent injury fund which was funded only by self-insured employers and an account within the state insurance fund which was to be used to cover employers insured by the System. The legislative history on S.B. No. 316 indicates that the purpose of removing the State Industrial Insurance System from the subsequent injury fund was to allow both the System and the Division of Industrial Relations to process claims for subsequent injuries more quickly. The System asserted it would be able to process claims more quickly because it would not need to file claims with the Division of Industrial Relations and wait for processing by the Division. It was also asserted that the Division of Industrial Relations would be able to process claims more quickly because it would not have to process as many claims if the claims of the System were removed from the subsequent injury fund.

Also in 1993, the names of certain governmental agencies were changed in the subsequent injury provisions with the enactment of Assembly Bill No. 782 (chapter 466, Statutes of Nevada 1993, at page 1479) which was a bill that reorganized the executive branch of state government.

VIII. 1995.

In 1995, the statutes governing the subsequent injury funds were again significantly amended by Senate Bill No. 458 (chapter 587, Statutes of Nevada 1995, at page 2122), as amended by Senate Bill No. 359 (chapter 203, Statutes of Nevada 1997, at page 508, 596). In Senate Bill No. 458 (S.B. No. 458) the Legislature: (1) maintained the ability of the System to manage its own claims for compensation for subsequent injuries, but specified additional conditions for the processing of such claims; (2) created one subsequent injury fund only for self-insured employers; (3) created a separate subsequent

injury fund for associations of self-insured employers; (4) created boards for the administration of those two subsequent injury funds; and (5) created one more subsequent injury fund for private carriers, which was to be administered by the Administrator of the Division of Industrial Relations and was not to become effective until July 1, 1999. To accomplish this, the Legislature amended NRS 616.4255 to specify conditions that an employer insured by the System had to meet to qualify for the privilege of not having a charge imposed against his account. These conditions mirrored the standards for payment or reimbursement from the subsequent injury funds for self-insured employers and for associations of self-insured public or private employers. Furthermore, the Legislature enacted new sections creating the Board for the Administration of the Subsequent Injury Fund for Self-Insured Employers and the Board for the Administration of the Subsequent Injury Fund for Associations of Self-Insured Employers Public or Private Employers. Finally, the Legislature enacted new sections which created the subsequent injury fund for associations of self-insured public or private employers and the subsequent injury fund for private carriers. The subsequent injury fund for private carriers was not to become effective until July 1, 1999.

In S.B. No. 458, the subsequent injury funds for self-insured employers and associations of self-insured public or private employers were and still are structured so that the appropriate board assesses the employers to provide the money for each fund and processes claims against each fund in accordance with regulations adopted by the board. The appropriate sections were also amended or new sections were added to provide that the Administrator of the Division of Industrial Relations will evaluate any claim submitted to the board for payment or reimbursement from the subsequent injury fund and recommend to the board any appropriate action to be taken on that claim and any other recommendations relating to the fund. Finally the appropriate sections were amended or new sections were added to provide that an appeal of any decision made concerning a claim against the subsequent injury fund is to be submitted directly to the district court. It appears from the legislative history of S.B. No. 458 that, by allowing appeals concerning decisions of the boards for the funds for self-insured employers and associations of self-insured employers to go directly to district court, the Legislature intended to cause these boards to replace the administrative review process normally provided by the appeals officer.

The subsequent injury fund for private carriers, however, was and is still structured so that the Administrator of the Division of Industrial Relations is to assess the private carriers to provide the money for the fund and will process claims against the

fund in accordance with regulations adopted by the Administrator. Another difference between this fund and the funds for self-insured employers and associations of self-insured public or private employers is that any appeal of any decision made concerning a claim against the subsequent injury fund for private carriers must be submitted to an appeals officer, rather than to the district court.

Finally, in S.B. No. 458, the new sections creating standards for payment or reimbursement from the new subsequent injury fund for associations of self-insured employers and the new subsequent injury fund for private carriers set forth standards that were the same as the previous standards for payment from the fund for self-insured employers and the standards for obtaining the privilege of not having a charge imposed against the account of an employer insured by the System.

IX. 1997 and 1999.

In 1997, the only bills to amend the statutes governing subsequent injury funds, other than bills making purely technical changes, were Senate Bill No. 164 (chapter 66, Statutes of Nevada 1997, at page 118) and Assembly Bill No. 609 (chapter 410, Statutes of Nevada 1997, at page 1423). Senate Bill No. 164 changed the designation of subsequent injury funds from "trust fund" to "special revenue funds." Assembly Bill No. 609 specified that the System could "take such actions as are necessary" rather than "adopt regulations" concerning the processing of claims for subsequent injuries. In 1999, the only bill to amend the statutes governing subsequent injury funds, other than bills making purely technical changes, was Senate Bill No. 37 (S.B. No. 37). S.B. No. 37 authorized the System to create a private, domestic mutual insurance company and to transfer the assets and liabilities of the System to such company. S.B. No. 37 also specified that, if the transfer were to occur, all sections of NRS and references therein to "the System" would be removed. Therefore, the section that had required the System to not impose a charge against an employer's account if he was claiming coverage for an appropriate subsequent injury (NRS 616B.540, formerly NRS 616.4255) was repealed and in the other statutes governing the subsequent injury funds, all references to "the System" were removed.

X. Conclusion.


As stated in the introduction, this letter provides a broad overview of the legislative history concerning the statutes that have governed subsequent injury funds in the State of Nevada. The major change appears to have been the restructuring of the number and type of subsequent injury funds or accounts. These changes appear to have been largely a result of changes to the structure of the industrial insurance system and to

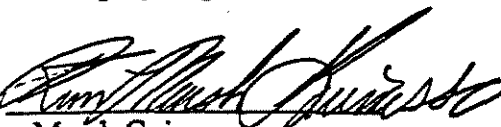
the parties that have been authorized to participate by providing industrial insurance in this state.

If you have any further questions regarding this matter, please do not hesitate to contact this office.

Very truly yours,

Brenda J. Erdoes
Legislative Counsel

By 
Sue S. Matuska
Senior Deputy Legislative Counsel

By 
Kim Marsh Guinasso
Principal Deputy Legislative Counsel

Cc: Senator Maggie Carlton
Senator Ann O'Connell
Senator Dean A. Rhoads
Senator Randolph J. Townsend
Assemblyman David Goldwater
Assemblyman Lynn Hettrick
Assemblywoman Gene Wines Segerblom
Crystal McGee, Senior Research Analyst, Research Division, LCB

APPENDIX E

Memorandum dated August 16, 2000, from Crystal M. McGee, Senior Research Analyst, Research Division, Legislative Counsel Bureau, to Assemblyman Lynn C. Hettrick, providing information regarding the current operations of Nevada's SIFs

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

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MORSE ARBERRY, JR., Assemblyman, Chairman
Mark W. Stevens, Fiscal Analyst
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Wm. GARY CREWS, Legislative Auditor (775) 684-6815
ROBERT E. ERICKSON, Research Director (775) 684-6825
BRENDA J. ERDOES, Legislative Counsel (775) 684-6830

MEMORANDUM

DATE: August 16, 2000
TO: Assemblyman Lynn C. Hettrick
FROM: Crystal M. McGee, Senior Research Analyst *mm*
Research Division
SUBJECT: Subsequent Injury Funds

This memorandum recaps information provided in prior correspondence to you regarding several matters related to Nevada's subsequent injury funds (SIFs). These matters were brought to your attention by Jeanette Belz, Director of Government Relations, Wadhams and Akridge (775/787-1942). Following are questions raised by Ms. Belz and answers to those questions.

1. What are the balances in the special revenue funds (in the state treasury) for the self-insured employer SIF (*Nevada Revised Statutes* [NRS] 616B.554(1)) and the self-insured association SIF (NRS 616B.575(1))? Are there any other SIF accounts? If so, what are the balances in these funds? Has it been determined whether there is an actuarial deficit in the funds?

The enclosed memorandum from Cindy Jones, Administrative Services Officer, Division of Industrial Relations (DIR) (telephone: 775/687-3305), provides the information that you requested.

2. What does it cost the DIR per year to administer the three funds (including estimate for private fund)? How many positions are dedicated to this function?

The aforementioned memorandum from Ms. Jones provides the information requested.

3. Please provide a more thorough explanation of \$1 million to \$1.5 million increase in premium costs to the state as a result of the elimination of the SIF (as per the memorandum dated May 4, 1999, from Susan Dunt, Risk Manager, Risk

Management Division, to Assemblywoman Barbara E. Buckley). How is this amount calculated? Was a formula used to determine the cost to the state?

The enclosed memorandum from Susan Dunt, Risk Manager, Risk Management Division (telephone: 775/687-6522), provides the explanation requested.

4. Please provide copies of the actuarial analysis used to determine assessment rates (NRS 616B.554(7) for self-insured employers, NRS 616B.578(7) for self-insured associations, and NRS 616B.584(7) for private employers).

Subsection 7 of NRS 616B.554 and subsection 7 of NRS 616B.584 provide, in part, that the Commissioner of Insurance must assign an actuary to review the establishment of assessment rates for the SIFs for self-insured employers and associations of self-insured public and private employers. Similar provisions in state law also exist with respect to the fund for workers' compensation and safety at NRS 616A.425, the Uninsured Employers' Claim Fund at NRS 616A.430, and for the SIF for private carriers at NRS 616B.584.

According to Jim Jeppson, Chief Insurance Assistant, Division of Insurance (telephone: 775/687-4270), Department of Business and Industry, the review by an actuary of these rates is done in aggregate because the assessment established pursuant to NRS 232.680 is one assessment that covers various costs and expenses associated with Nevada's workers' compensation program including the aforementioned funds. Mr. Jeppson further explained that various sections of Chapter 616B of NRS require reviews of the *establishment of assessment rates*. He stated that the actuary charged with conducting the reviews examines the methodology, that is the formula used by DIR, to establish the assessment rates. The total assessment is determined through the state budget process. Therefore, the actuary's review focuses on the distribution of the total budgeted assessment figure and is not used to *determine* the assessment rates. Likewise, the actuary's review does not focus on whether the assessment rates are adequate or excessive since the total amount of the assessment is determined through the state budget process.

According to Mr. Jeppson, in reviewing the establishment of the assessment rates, the actuary has two basic tasks. First, the actuary will seek to ensure that the correct entities are being assessed to ensure that insurers that do not directly benefit from certain activities whose costs are covered by the assessment are not paying for those items. For example, the assessment to individual self-insured employers and associations of self-insured public and private employers should not include the costs associated with the Commissioner of Insurance's review of the premium rates for private carriers. Second, the actuary reviewing the establishment of the assessment rates will seek to ensure that the formula used to assess insurers is fair and equitable.

5. Cross-subsidization of assessment accounts—The workers' compensation assessment includes funding for many accounts (i.e., Nevada Attorney for Injured Workers, Commissioner of Insurance's review of rates, SIFs, uninsured employers claim fund,

etc.). Is there a possibility that a SIF is subsidizing other activities, and if so, to what degree per account?

The aforementioned memorandum from Ms. Jones provides the information requested.

6. What is the litigation rate for the SIF funds? (What percent of claims filed against the SIFs result in a legal dispute with attorney involvement?)

The aforementioned memorandum from Ms. Jones provides the information requested.

Concluding Remarks

I trust this information is useful. If you have any questions or need additional information, please contact me at 775/684-6825.

CMM/sfr:W01594-3.05
Enc.



DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INDUSTRIAL RELATIONS
ADMINISTRATIVE SERVICES UNIT
400 W. King Street, Suite 100
Carson City, Nevada 89703
(775) 687-4583 • Fax (775) 687-1416
Internet Address: www.state.nv.us/b&i/ir/index.htm

May 19, 2000

Memorandum

To: Crystal McGee, Senior Research Analyst
Legislative Counsel Bureau

From: Cindy Jones, Administrative Services Officer

RE: SUBSEQUENT INJURY FUNDS INFORMATION REQUEST.

Following is the Division's response to your request for information regarding Subsequent Injury Funds.

1. What are the balances in the special revenue funds (in the state treasury) for the self insured employer SIF (NRS 616B.554(1)) and the self insured assn. SIF (NRS 616B.575(1))? Are there any other SIFs accounts? If so, what are the balances in these funds? Has it been determined whether there is an actuarial deficit in the funds?

The Subsequent Injury Funds are supported through the Workers' Compensation and Safety Fund Assessment. Attached is the most recent financial statement prepared by the Division for the Subsequent Injury Fund for Self-Insured Employers. No claims or administrative expenses were incurred by the Subsequent Injury Board for Associations of Self-Insured Public or Private employers for Fiscal Year 1999, therefore, internal financial statements were not prepared. The entire Fiscal Year 1999 estimated assessment totaling \$320,000 was refunded to the associations. The balance for the Subsequent Injury Fund for Private Employers is zero. No assessments have been billed and no claims have been filed against this fund.

Subsequent injury fund assessments are calculated utilizing claims expenditures applying the same methodology used to calculate charges for all other programs funded by the assessment. Unexpended funds for each fiscal year are refunded to payers of the assessments during the final assessment cycle. Each fiscal year is assessed, tracked and refunded separately and no balances are rolled forward. A deficit balance in these funds has not occurred up to this point in time. Should expenditures for a fiscal year exceed the amount assessed during the estimated cycle, additional billings would be calculated in the final cycle or if deemed necessary, a special assessment. In all fiscal years up to this point, payers into the Subsequent Injury Funds have

received refunds during the final assessment cycle.

2. What does it cost DIR per year to administer the three funds (including estimate for private fund)? How many positions are dedicated to this function?

With in Budget account 4680, two categories have been established to administer costs incurred by the Subsequent Injury Fund boards. Categories 23 and 25 have been established for the Association Subsequent Injury board and the Self-Insured Subsequent Injury Board respectively. For Fiscal Year 2000, Category 23 has an approved budget of \$59,099 and Category 25 has an approved budget of 73,999. Actual expenditures for these categories in Fiscal Year 1999 was \$0 for category 23 and \$7,030 for category 25. No operating budget or category has been established for the Subsequent Injury Fund for Private employers as the Division has experienced no activity in this fund.

No positions are specifically dedicated however the following table provides an estimate of the amount of times spent by Division personnel in performing tasks related to the administration of the subsequent injury funds. Personnel who perform tasks related to the administration of the Subsequent Injury Funds are employed by the Division's Industrial Insurance Regulation Section and Legal Sections which are both part of budget account 4680.

Number of Positions	Position Type	% of time	FTE
<u>Southern Nevada</u>			
1	Compliance Audit Investigator	40%	.4
3	Compliance Audit Investigator	20%	.6
5	Compliance Audit Investigator	10%	.5
1	Audit Supervisor	10%	.1
2	Medical Unit Personnel	10%	.2
<u>Northern Nevada</u>			
1	Compliance Audit Investigator	10%	.1
3	Compliance Audit Investigator	5%	.15
1	Program Assistant	5%	.5
1	Medical Unit Personnel	5%	.5
<u>Total FTE</u>			2.15

Additional personnel in budget account 4680's Legal section and Administrative Services unit also dedicate a small portion of their time to Subsequent Injury Fund tasks.

3. Request copies of actuarial analysis used to determine assessment rates (NRS 616B.554(7) for self insured employers, NRS 616B.578(7) for self insured assns. and NRS 616B.584(7) for private employers.)

No assessment rates are actually established. The assessment is calculated using an insurers portion of total claims costs multiplied against program costs. The Division sends notice to the Division of Insurance notifying them of our intent to continue to calculate the assessment using the same methodology employed in the past consistent with current regulations (attached). Any actuarial analysis performed on the assessment rates is performed by the Division of Insurance per the NRS's cited above. Eloise Koenig of the Division of Insurance should be able to supply you with the any completed analysis.

4. Cross subsidization of assessment accounts – the work comp assessment includes funding for many accounts (i.e.. NV attorney for injured workers, commissioner's review of rates, SIFs, uninsured employers claim fund etc.). Is there a possibility that SIF is subsidizing other activities? To what degree per account?

No funds collected for the payment of subsequent injury claims or to support costs incurred by the boards are used for any other purpose. Funds for these functions are accounted for in separate budget accounts and/or categories.

5. What is the litigation rate for the SIF funds? (What % of claims filed against the SIFs result in a legal dispute with attorney involvement?)

At present, no appeals of Subsequent Injury Board decisions are pending. Historically approximately 10% of board decisions are appealed to District Court.

If you need further information, let me know.

State of Nevada
Department of Business and Industry
Division of Industrial Relations

Subsequent Injury Fund for Self-Insured Employers
Financial Statements

December 31, 1999 and June 30, 1999

**STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INDUSTRIAL RELATIONS**

SUBSEQUENT INJURY FUND FOR SELF-INSURED EMPLOYERS

BALANCE SHEET

	December 31, 1999	June 30, 1999
Assets		
Cash on Deposit with Treasurer	\$ 6,284,475	\$ 4,960,969
Due from Other Fund	-	-
Assessments Receivable	5,732	5,732
Interest Receivable	89,249	0
Total Assets	<u>\$ 6,379,456</u>	<u>\$ 4,966,701</u>
Liabilities		
Claims Payable	\$ 257,650	\$ -
Due to Other Fund	5,877,429	4,709,051
Total Liabilities	<u>6,135,079</u>	<u>4,709,051</u>
Fund Balance - Beginning of Period	257,650	936,177
Net Resources over Uses	244,377	257,650
Refunds of prior year ending fund balance	(257,650)	(936,177)
Fund Balance - End of Period	<u>244,377</u>	<u>257,650</u>
Total Liabilities and Fund Balance	<u>\$ 6,379,456</u>	<u>\$ 4,966,701</u>

See Accompanying Notes to Financial Statements

**STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INDUSTRIAL RELATIONS**

SUBSEQUENT INJURY FUND FOR SELF-INSURED EMPLOYERS

STATEMENT OF RESOURCES AND USES

	Six Months Ended December 31, 1999	Twelve Months Ended June 30, 1999
Resources		
Assessments	\$ 1,000,000	\$ 1,994,705
Interest collected	31,198	78,356
Total Resources	<u>1,031,198</u>	<u>2,073,061</u>
 Uses		
Claims Expense	786,821	1,815,411
Total Expenditures	<u>786,821</u>	<u>1,815,411</u>
 Net Resources over Uses	 <u>\$ 244,377</u>	 <u>\$ 257,650</u>

See Accompanying Notes to Financial Statements

STATE of NEVADA
DEPARTMENT OF BUSINESS and INDUSTRY
DIVISION of INDUSTRIAL RELATIONS

SUBSEQUENT INJURY FUND for SELF-INSURED EMPLOYERS

Notes to Financial Statements
December 31, 1999

NOTE 1: DESCRIPTION OF BUSINESS AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Description of Business

Effective July 1, 1995 Nevada Revised Statutes ("NRS") 616B.548 established a board for the administration of the Subsequent Injury Fund for Self-Insured Employers consisting of five members, appointed by the Governor, who are self-insured employers. Prior to July 1, 1995, the Fund was administered by the Department of Business and Industry, Division of Industrial Relations ("DIR") who regulates all insurers under NRS Chapter 616 and 617, the Nevada Industrial Insurance Act and the Nevada Occupational Diseases Act.

Description of Fund

The Subsequent Injury Fund is established by NRS 616B.554 as a Fund which is used to make payments under the provisions of NRS 616B.557 and 616B.560. NRS 616B.557 provides if an employee of a self-insured employer is known to have a permanent physical impairment and incurs a subsequent disability by injury in the course of employment, the compensation due from the subsequent injury must be charged to the Fund.

Basis of Accounting

This financial statement is prepared under the modified accrual basis of accounting, where revenues are recognized when susceptible to accrual, that is, when they become both measurable and available. "Measurable" means the amount of the transaction can be determined and "available" means collectible within the current period. The State of Nevada considers revenues as available if they are collected within 60 days after the end of the period. Expenditures are recorded when the related Fund liability is incurred.

Source of Funding

In accordance with NRS 616B.554(6) resources for the Fund are provided by an assessment levied upon self-insured workers' compensation insurers and interest earnings. Assessments are conducted on an estimated and a final cycle for each fiscal period. In the estimated cycle, the assessment is determined by dividing the three year average of paid workers' compensation claims expenditures of an insurer by the workers' compensation claims expenditures of all insurers for the same period. The resulting percentage is multiplied by the estimated costs of the Fund to provide an assessment for each insurer. Billings are sent to each insurer at the beginning of the fiscal period, to be paid in quarterly installments.

The final cycle uses the same methodology to compute the assessment, however, the three year average is replaced by the actual paid workers compensation claims expenditures during the fiscal period. The Fund balance is not carried forward to future years, and any overpayments during the estimated cycle are refunded to insurers.

Notes to Financial Statements (Cont.)

NOTE 2: ASSETS and RESOURCES

Assessments - For fiscal 1999 and 2000, insurers have been billed \$2,000,000 each year for the Fund, payable in quarterly installments. The December 31, 1999 and the June 30, 1999 Accounts Receivables of \$5,732 each year, represents unpaid assessments from prior periods.

Interest Collected - Interest is allocated to the Fund by the State Treasurer on a quarterly basis.

Due from Other Fund - Amounts deposited into the Workers' Compensation and Safety Fund in error which belong to the Subsequent Injury Fund.

NOTE 3: LIABILITIES and USES

Claims Payable - Claims approved by the Subsequent Injury Fund Board pending payment.

Due to Other Fund - Amount owed to the Workers' Compensation and Safety Fund for assessment refunds paid and deposits miscoded to the fund.

Claims Expense - Reimbursement of claims expense, including claims payable, to insurers for the current period. As of December 31, 1999 and June 30, 1999 remaining claims activity is as follows:

	<u>December 31, 1999</u>	<u>June 30, 1999</u>
Claims Pending Review	\$ 78,181.00	\$ 440,058.00
Board Denied Claims Subject to Appeal	187,109.00	239,416.00
Denied Claims Subject to Appeal Prior to July 1, 1995	<u>0.00</u>	<u>155,843.00</u>
Total Remaining Claims Activity	\$ <u>265,290.00</u>	\$ <u>835,317.00</u>

Sample

July 8, 1999

Alice Molasky-Armon
Commissioner of Insurance
DIVISION OF INSURANCE
1655 Hot Springs Road, Suite 152
Carson City, NV 89710

RE: FY 1999 Estimated Annual Assessment Rates

Dear Ms. Molasky -Armon:

Pursuant to NRS 616A.425(6), 616A.430(7) and 616B.554(7) assessment rates must be filed with the Commissioner 30 days prior to their effective date. NRS 616B.544(6) and 616A.430(6) state the assessment rates must reflect the relative hazard of the employments covered by self-insured employers and be based upon expected annual expenditures for claims. Claims expenditures are used to reflect the relative hazard experienced by self-insured employers.

The assessment for each self-insurer is calculated by dividing the claims expenditures of the insurer by the claims expenditures of all insurers, which provides a percentage. Senate Bill 37, Section 89 states requires using expected annual expenditures for claims for injuries occurring on or after July 1, 199. This percentage is multiplied against the cost of the Workers' Compensation and Safety program to determine the individual assessment for each insurer. This process produces an assessment rate specific to each insurer, consistent with statutory requirements.

The Division will be preparing the FY 1999 Estimated Annual Assessment prior to August 9, 1999. As the Division has made no changes to the assessment rates except those required as a result of statutory amendments made by the 1999 Nevada Legislature, please consider this letter informational and our correspondence of August 10, 1995 notification of assessment rates in accordance to the above referenced statutes.

Very truly yours,

Roger Bremner
Administrator



C. GUINN
Governor

STATE OF NEVADA
DEPARTMENT OF ADMINISTRATION
RISK MANAGEMENT DIVISION

400 W. King Street, Suite 220
Carson City, Nevada 89703-4222
Telephone (775) 687-6522 • Fax (775) 687-3908

JOHN P. COMEAUX
Director

RANDY WATERMAN
Risk Manager

MEMORANDUM

May 1, 2000

TO: Crystal McGee, Research Analyst, Legislative Counsel Bureau

FROM: Susan Dunt, Risk Manager *Susan Dunt*

RE: Subsequent Injury Issues

Per your request, this is intended to explain the Risk Management Division's rationale in determining that elimination of the subsequent injury fund at the 1999 Legislative Session would have increased premium costs to Central Payroll agencies by an average of \$1,000,000 per year in the FY 2000 and 2001 biennium.

Currently and since calendar year 1994, a special annual rating plan has been negotiated with the State's workers' compensation insurer, which is called a retrospective rating plan. This plan includes a basic premium cost of between \$1 and \$2 million depending on the factors that are chosen. Then, incurred claims costs (actual costs plus reserves) are paid on a dollar for dollar basis. Each annual policy plan has a four or five year tail that includes an annual adjustment in July or August of each year, that includes both increases or decreases in the cost of claims based on their maturation. The policy plan is then finalized with a percentage buyout, based on total claims costs, at the 4th or 5th year adjustment.

The Risk Management Division initiated audits of claims for eligibility for subsequent injury relief in 1995. Since then, an average of \$1,000,000 in claim costs has been applied to this fund and removed from the experience of each annual policy year plan since 1995.

Therefore, when we projected claim costs for the FY 2000/2001 biennium (in FY 98) we subtracted \$1,000,000 from the total projected premium costs for each year, which resulted in an offset to our agencies and lowered the composite rate that was accessed. At that time we had a number of outstanding subsequent injury requests that we were confident would result in write-offs during this time period. Although most subsequent injury requests are responded to within 6 months, sometimes it can take up to 18 months to receive a final determination, particularly if there is an appeal of an initial denial.

Attached is an updated chart that lists the subsequent injury requests that have been approved, since May 1999 when the testimony and documentation was initially presented to the Legislature in regard to this issue. As you will see, since May 1999, seven claims have been approved for subsequent injury relief for a total of \$1,222,505 that has been or will be removed from our experience at the next adjustment in August 2000. These costs will be credited to the appropriate year and will offset any additional premium due. There is a total of \$1,293,206 in costs still pending for nine claims that are in the review or appeal process. In addition we are still

reviewing and auditing additional claims that will be submitted for consideration in the next 6 months.

Due to the possibility that the subsequent injury program might be modified during the next legislative session, the Risk Management Division will not include an offset in premium costs to State agencies for pending or future subsequent injury write-offs in the budget projections for the FY 2002/03 biennium. This will not affect the ultimate fiscal impact to the State of Nevada if the subsequent injury program is eliminated or significantly modified. However, it will prevent the need for last minute budget revisions at a late date of the session in 2001, which is what we faced if the bill had passed in 1999.

Please let me know if any further clarification is needed.

cc: Carla Watson, Legislative Counsel Bureau Analyst
Jim Manning, Budget Analyst
Tracy Raxter, Administrative Services
Jim Fry, Risk Management

STATE OF NEVADA
SUBSEQUENT INJURY FUND RELIEF
1998 & 1999

Claim #	DOI	Issue	Costs Removed	Req. Date	Granted Date
95-053541.8	6-6-95	Back claim – prior claims	377,396	12-1-98	5-20-99
97-009676.3	8-19-96	Back – prior back injury	98,996	9-2-98	5-24-99
98-038720.5	4-21-98	Back claim – 3 prior claims w/ PPD's	87,718	4-12-99	7-20-99
98-048971.8	11-6-98	Heart – prior	484,665	6-16-98	11-30-99
97-030362.5	12-30-96	Heart – prior	167,723	9-28-98	1-29-00
98-039473.1	4-22-98	MS & prior back inj w/ PPD	6,338	9-2-98	2-7-00
98-021255.9	11-23-97	S/I Prior knee inj	1,669	5-17-98	2-17-00

\$1,224,505

7 claims accepted for subsequent injury relief write-off - \$1,224,505

STATE OF NEVADA
SUBSEQUENT INJURY FUND RELIEF
1998 & 1999
Pending Appeal

Claim #	DOI	Issue	Incurred Cost	Date Req.	Date Granted
96-029464.6	12-28-95	Leukemia	23,259	8-12-98	
98-046953.8	6-4-98	Heart – prior	19,980	9-28-98	
99-013599.9	4-1-99	Heart – prior	506,670	4-1-99	
98-023601.6	12-5-97	Cervical spine injury prior N/I C fusion	12,487	9-9-99	
98-019979.9	11-12-97	Wrist	89,702	9-9-99	
98-026837.8	11-1-97	Prior back injury	19,935	9-9-99	
99-031571.3	2-24-99	C spine cl.#92-080818.2 PPD 22%	135,373	1-25-00	
99-013468.2	10-5-98	Cervical & R shoulder	93,172	1-25-00	
98-022181.3	11-9-97	Prior in 89 w/ 30% PPD	392,628	3-15-00	

\$1,293,206

9 claims pending appeal for subsequent injury relief.

Revised 4/28/00

APPENDIX F

Memorandum dated March 30, 2000, from Crystal M. McGee, Senior Research Analyst,
Research Division, Legislative Counsel Bureau, to Assemblyman Lynn C. Hettrick,
regarding the Subsequent Injury Fund for Self-Insured Employers

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

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CARSON CITY, NEVADA 89701-4747
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Mark W. Stevens, Fiscal Analyst
Daniel G. Miles, Fiscal Analyst



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Wm. GARY CREWS, Legislative Auditor (775) 684-681
ROBERT E. ERICKSON, Research Director (775) 684-682
BRENDA J. ERDOES, Legislative Counsel (775) 684-683

MEMORANDUM

DATE: March 30, 2000
TO: Assemblyman Lynn C. Hettrick
FROM: Crystal M. McGee, Senior Research Analyst *CMcGee*
Research Division
SUBJECT: Subsequent Injury Fund for Self-Insured Employers

This memorandum responds to your request for information concerning certain self-insured employers who have received reimbursements from the Subsequent Injury Fund for Self-Insured Employers. Specifically, you asked for information regarding Mirage Resorts, Circus Circus Enterprises, Inc., and Hilton Hotels Corporation.

Circus Circus Enterprises changed its name to the Mandalay Resort Group, and Hilton Hotels Corporation now operates under its successor organization, Park Place Entertainment. For the purpose of this memorandum, I use the names under which these organizations are currently operating.

With respect to each of these employers you asked the following questions:

- Does the self-insured employer have a specific program to promote hiring of disabled persons?
- Does the self-insured employer utilize a post-employment questionnaire to determine if an employee has any preexisting condition?
- Who administers the self-insured employer's claims for workers' compensation?

Following is table that summarizes the answers to each of your questions and a detailed discussion of each employer's response.

Self-Insured Employer	Program to Promote Hiring of Disabled Persons	Post-Employment Questionnaire	Claims Administrator
Mandalay Resort Group	No	Yes	CDS of Nevada
Mirage Resorts	Yes	Yes	Self-administered
Park Place Entertainment	No	No	Self-administered

Mandalay Resort Group

Does the Mandalay Resort Group have a specific program to promote hiring of disabled persons?

According to Patricia Walquist, Workers' Compensation Manager, Mandalay Resort Group (telephone: 702/691-5992), Circus Circus and other casinos managed under the Mandalay Resort Group do not have a specific program to promote hiring of disabled workers. Ms. Walquist stated that while the Mandalay Resort Group does not have such a program, the casinos do not discriminate in their hiring practices, and disabled persons are hired routinely.

Does the Mandalay Resort Group utilize a post-employment questionnaire to determine if an employee has any preexisting condition?

Enclosed is a post-employment questionnaire titled "Employee Information Sheet," provided by Ms. Walquist. This form is completed by the employee after an offer of employment from a Mandalay Resort casino has been accepted. The questionnaire asks specific questions concerning physical ability and prior workers' compensation claims to determine if an employee has any preexisting condition that might result in an injury that may be reimbursed from the Subsequent Injury Fund for Self-Insured Employers. See Questions 1 through 3 of the "Employee Information Sheet."

Ms. Walquist pointed out that in many cases of subsequent injury fund-reimbursable injuries, the employee's prior injury or preexisting impairment resulted from an injury that occurred while the employee was also employed by the Mandalay Resort Group. Therefore, the employer has documentation of the prior injury and may establish prior knowledge of a physical impairment.

Who administers claims for workers' compensation for the Mandalay Resort Group?

Workers' compensation claims for the Mandalay Resort Group are administered by CDS of Nevada. Ms. Walquist noted that CDS of Nevada is aggressive when pursuing matters related to subsequent injury reimbursement. Ms. Walquist also pointed out that she is the chair of the Board for Administration of the Subsequent Injury Fund for Self-Insured Employers. Therefore, in her capacity as the Workers' Compensation Manager for the Mandalay Resort

Group, she utilizes her own knowledge and experience with subsequent injury funds as chair of the Board when reviewing claims for compensation.

Mirage Resorts

Does Mirage Resorts have a specific program to promote hiring of disabled persons?

Mirage Resorts participates in the Community Partners Program that is designed to help certain disadvantaged individuals secure employment. According to Norma Norman, Employee Relations Manager, Bellagio Hotel and Casino, Mirage Resorts Group, the Community Partners Program accesses various state, local, and private entities in order to provide certain members of the Las Vegas community, including disabled persons, with employment opportunities. Ms. Norman explained that with respect to disabled persons, the Community Partners Program provides such individuals with access to employment opportunities at Mirage Resorts that they may not have sought out otherwise.

Does Mirage Resorts utilize a post-employment questionnaire to determine if an employee has any preexisting condition?

Enclosed is a copy of the post-employment questionnaire pertaining to subsequent injuries titled "Subsequent Injury History," provided by Jim Pettis, Vice President of Risk Management, Mirage Resorts (telephone: 702/650-6700). This form is completed by the employee after an offer of employment has been accepted. The form requests that the employee list any prior workers' compensation claims, including the date of injury, the body part injured, the date of any permanent partial disability award, days missed from work, and the employer at the time of the injury.

Who administers claims for workers' compensation for Mirage Resorts?

According to Mr. Pettis, workers' compensation claims for Mirage Resorts are self-administered. Mr. Pettis explained that claims adjusters at Mirage Resorts receive formal instruction in administering claims for workers' compensation that includes training regarding subsequent injury funds.

Park Place Entertainment

Does Park Place Entertainment have a specific program to promote hiring of disabled persons?

According to John Vena, Claims Manager, Park Place Entertainment (telephone: 702/796-9694), the Hilton Hotels properties in Nevada do not have a specific program to promote the hiring of disabled persons.

Does Park Place Entertainment utilize a post-employment questionnaire to determine if an employee has any preexisting condition?

Mr. Vena stated that newly hired employees are not asked to fill out a post-employment questionnaire. Park Place utilizes a product offered by Insurance Services Office, Incorporated (ISO) to learn of any prior injuries an employee may have. Insurance Services Office is a supplier of property and casualty information including actuarial, claims, statistical, and underwriting information. Park Place accesses a database maintained by ISO to determine if an employee has previously filed a workers' compensation claim.

According to Susan Hoagland, Subscriber File Processor, ISO, the ISO database contains information from the database formerly administered by the National Insurance Crime Bureau. The information maintained in the database is received directly from participating insurance carriers.

Who administers claims for workers' compensation for Park Place Entertainment?

According to Mr. Vena, the workers' compensation program for the Park Place Entertainment properties located in Nevada is self-administered. Mr. Vena further explained that industrial insurance claims adjusters for Park Place are educated regarding subsequent injury funds.

Concluding Remarks

Also enclosed is a copy of the subsequent injury analysis for self-insured employers for Fiscal Years 1996 through 1998 provided to the Legislative Committee on Workers' Compensation (*Nevada Revised Statutes* 218.5375) by the Division of Industrial Relations, Nevada's Department of Business and Industry.

I trust this information is useful. If you have any questions or need additional information, please contact me at 775/684-6825.

CMM/sfr:W01245.05
Enc.

MIRAGE RESORTS, INCORPORATED

WORKERS' COMPENSATION

SUBSEQUENT INJURY HISTORY

Name: _____ Hire Date: _____

Position: _____ Employee #: _____

Social Security Number: _____

The State of Nevada has a subsequent injury fund from which an employer can be reimbursed for monies spent on a subsequent injury to the same body part. Bellagio asks your assistance by completing the following.

Please list any worker's compensation claims below. Include the date of the injury, the injured body part, the date of any permanent partial disability award, and your employer at the time. Also, if you missed more than 5 days from work, cite how many.

Injury Date: _____	Award Date: _____	Days Missed: _____
Body Part: _____		
Employer: _____		
Injury Date: _____	Award Date: _____	Days Missed: _____
Body Part: _____		
Employer: _____		
Injury Date: _____	Award Date: _____	Days Missed: _____
Body Part: _____		
Employer: _____		
Injury Date: _____	Award Date: _____	Days Missed: _____
Body Part: _____		
Employer: _____		
Injury Date: _____	Award Date: _____	Days Missed: _____
Body Part: _____		
Employer: _____		
Injury Date: _____	Award Date: _____	Days Missed: _____
Body Part: _____		
Employer: _____		
Injury Date: _____	Award Date: _____	Days Missed: _____
Body Part: _____		
Employer: _____		

MRI/33347, **

Injury-1

EMPLOYEE INFORMATION SHEET

In accordance with my right to privacy, I have been advised that the information described herein will assist MANDALAY RESORT GROUP, in making an employment and security determination concerning me and that I am under no obligation to sign this form.

I hereby authorize any duly authorized representative of MANDALAY RESORT GROUP, or any of its wholly owned subsidiaries, bearing this document, or a copy thereof, to obtain any information about me from schools, residential agents, employers, credit reporting agencies, criminal justice agencies, or individuals, relating to my past activities ("the information"). The information may include, but is not limited to, academic, residential, achievement, job performance, attendance, personal history, credit, disciplinary and conviction records.

I hereby authorize and consent to the release of the information to such representative. I understand that the information is for consideration of my employment application and possibly for the purpose of determining my qualifications for access to classified information or assignment to a sensitive position, and may be disclosed to such representative as necessary to aid in such consideration.

I acknowledge and agree that I am executing this Authority for Release of Information voluntarily and have the right to receive a copy of it upon my request.

I further hereby release any director, officer, agent, employee or authorized representative of MANDALAY RESORT GROUP, and any of its wholly owned subsidiaries, from any and all liability for damages of whatever kind or nature which may at any time accrue to me on account of (1) reliance by such persons on the information submitted in my employment application; (2) reliance by such persons on the information obtained pursuant to this authorization; (3) compliance with, or any attempts to comply with this authorization; and (4) termination of my employment based on information obtained after commencement thereof pursuant to this authorization.

1. Do you have any known physical condition or handicap which may limit your ability to perform the job? Yes No
If yes, please explain: _____

You may be required to pass a job related physical exam.

2. Have you made any worker's compensation claims within the past five years? (injury or accident on the job) Yes No If yes, list nature, duration, name of employer and dates: _____
3. Did you receive an award based on permanent disability? Yes No If yes, describe award: _____
4. Have you ever served in the armed forces? Yes No
If yes, list Branch and Rank: _____
Dates of Service: _____ Where: _____
5. Have you ever been convicted of a crime other than a traffic violation? Yes No
If yes, list charge, disposition, dates and cities: _____

In completing this form, I realize that my character, reputation for honesty, habits, ability, records of criminal convictions, if any, financial responsibility and reasons for leaving employment may be investigated and that persons who know me, now and/or in the past, may be contacted and questioned about me to which I hereby give my consent.

Anyone who may furnish any of the above information shall not be held responsible for any loss or damage that I may suffer in consequence thereof. I further agree that any information obtained by the company from any source will be held confidential by the Company from all persons and even against any demand made by me, except as required by law.

It is the policy of the company to consider all the information supplied by the applicant in assessing his/her qualifications for employment.

I UNDERSTAND AND AGREE TO THE FOLLOWING:

1. ANY FALSE STATEMENTS OR OMISSIONS ON THIS DOCUMENT WILL BE SUFFICIENT GROUNDS FOR TERMINATION AT ANY TIME DURING MY EMPLOYMENT.
2. MY EMPLOYMENT MAY BE TERMINATED BY MYSELF OR THE COMPANY AT ANY TIME WITH OR WITHOUT CAUSE AND WITH OR WITHOUT NOTICE.
3. I WILL BE ON AN INTRODUCTORY PERIOD OF AT LEAST ONE-HUNDRED-TWENTY (120) DAYS DURATION.
4. AT ANY TIME DURING MY EMPLOYMENT, I MAY BE REQUIRED TO TAKE A BLOOD OR URINE TEST AND TO REFUSE MAY RESULT IN MY IMMEDIATE TERMINATION.
5. I FURTHER UNDERSTAND THAT ANY INFORMATION REGARDING MY CRIMINAL HISTORY WILL NOT NECESSARILY DISQUALIFY ME FROM THE JOB FOR WHICH I HAVE BEEN HIRED.
6. IF HIRED UNDER A BARGAINING UNIT AGREEMENT, THE PROVISIONS OF THE AGREEMENT SHALL TAKE PRECEDENCE OVER ANY STATEMENTS CONTAINED IN THIS DOCUMENT.

Should there be any question as to the validity of this authorization, you may contact me as indicated below.

Full Name (Print) _____	
Address _____	
City, State, Zip _____	
Telephone No. (Home) _____	(Work) _____
Social Security Number _____	
Parent or Guardian signature (If Required) _____	
Signature (Full Name) _____	
_____ Witnessed by	_____ Date

APPENDIX G

Document titled "Subsequent Injury Funds (SIFs)" dated March 10, 2000

Subsequent Injury Funds (SIFs)

Crystal M. McGee
Senior Research Analyst
Research Division
Legislative Counsel Bureau

March 10, 2000





Purpose of SIFs

- Encourage employers to hire and retain workers with physical impairments.
- Provide economic relief to employers who hire workers with physical impairments when such workers are subsequently injured.



Nevada's SIFs

- Self-Insured Employers
- Associations of Self-Insured Public or Private Employers
- Private Carriers

All of Nevada's SIFs are funded through the workers' compensation assessment.



Nevada's SIFs

- **SIF for Self-Insured Employers**
 - Administered by the Board for Administration of the Subsequent Injury Fund for Self-Insured Employers.
 - During Fiscal Years 1996 through 1998, less than 10 percent of the Fund's contributors accessed the fund for reimbursement (see attachment).



Nevada's SIFs

- **SIF for Associations of Self-Insured Public or Private Employers**
 - Administered by the Board for Administration of the Subsequent Injury Fund for Associations of Self-Insured Public or Private Employers.
 - As of February 25, 2000, no claims have been approved under the Fund.



Nevada's SIFs

- **SIF for Private Carriers**

- Administered by the Administrator of the Division of Industrial Relations.
- As of February 25, 2000, no claims have been filed against the Fund.



Qualifying for SIF Reimbursement

- *Nevada Revised Statutes* 616B.557, 616B.578, 616B.587
 - The compensation due the injured employee for the subsequent injury must be substantially greater by reason of the combined effects of the preexisting impairment and the subsequent injury than from the subsequent injury alone.
 - The injured employee must have a preexisting physical impairment of 6 percent or more prior to the date of injury.



Qualifying for SIF Reimbursement

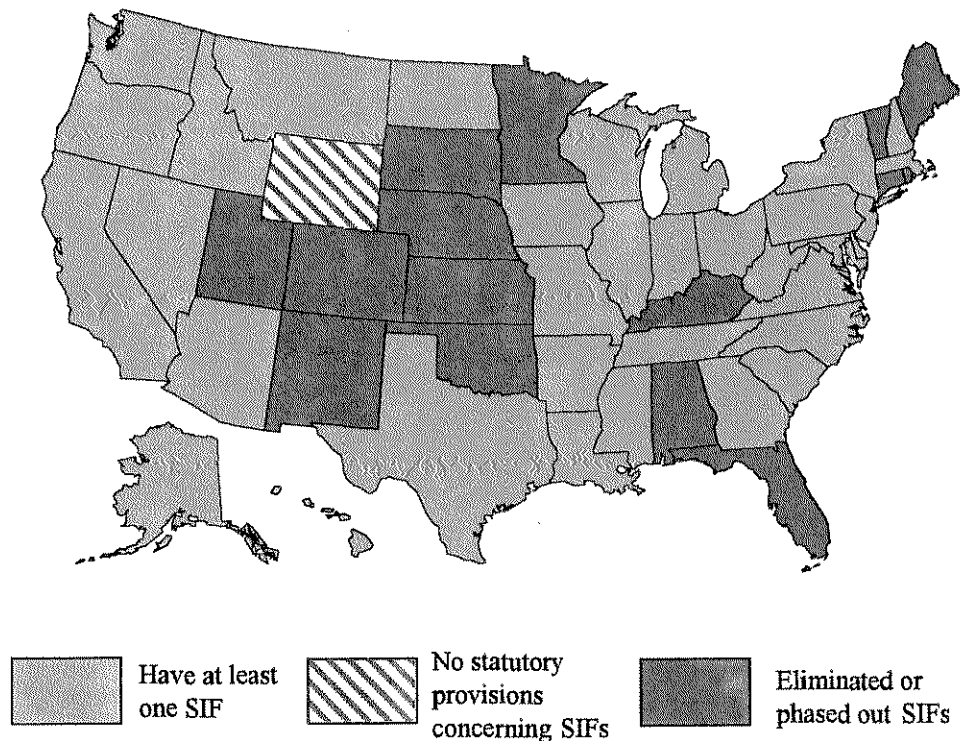
- Continued
 - An employer must establish by written records that he had knowledge of the preexisting impairment at the time of hire or that the employee was retained in employment after the employer acquired such knowledge.
 - An employer must notify the respective Board or Administrator of a possible claim against a SIF within 100 weeks of the subsequent injury.

National Trends

- **Sixteen jurisdictions have eliminated or phased out their SIFs:**

Alabama
Colorado
Connecticut
District of
Columbia
Florida
Kansas
Kentucky
Maine

Minnesota
Nebraska
New Mexico
Oklahoma
Rhode Island
South Dakota
Utah
Vermont





National Trends

- National organizations supporting the elimination of SIFs
 - National Council of Self-Insurers
 - The Insurance Institute of America
 - UWC (Unemployment & Workers' Compensation)
 - American Insurance Association



National Trends

- American Insurance Association April 1997 letter recommends “abolishing” SIFs (attached):
 1. The funds deviate from the principle that an employer’s costs should be internalized;
 2. The funds have not met their objective of promoting the hiring of disabled workers;
 3. Many funds have accumulated large unfunded deficits; and
 4. The funds create administrative costs, disputes, and promote attorney involvement.



Implications of the ADA

- Americans with Disabilities Act of 1990 (ADA) makes it unlawful to discriminate in employment against a qualified individual with a disability.
- Since July 1994, the ADA applies to employers with 15 or more employees.



Implications of the ADA

- SIFs provide an incentive for employers to hire handicapped individuals.
- The ADA takes a more direct approach – it commands employers not to discriminate in their employment practices.



Implications of the ADA

- Uncertainty regarding the ADA and SIF
 - Supporters of eliminating SIFs assert that with the enactment of the ADA, employers are no longer able to discriminate against workers with disabilities.
 - They feel that there is no longer a need to provide employers with a financial incentive to do something that employers are legally required to do.



Implications of the ADA

- Preemployment examinations under the ADA and SIF
 - ADA prohibits all questioning concerning medical conditions or medical history from employment applications, interviews, and tests given to job applicants.
 - An employer may not ask an applicant whether he or she has a disability, or inquire as to the nature or severity of any disability.



Implications of the ADA

- Pre-employment examinations under the ADA and SIF (continued)
 - An employer may make preemployment inquiries as to the ability of an applicant to perform job-related functions.



Implications of the ADA

- Post-employment questionnaires
 - An employer may have a newly hired employee complete a health questionnaire in order to determine if the employee has any preexisting condition that might result in a SIF-reimbursable injury at a later date.



Implications of the ADA

- After passage of the ADA, the International Association of Industrial Insurance Accident Boards and Commissions (IAIABC) established a working group to study the impact of the ADA on SIFs.
- The IAIABC working group did not publish a final report because members of the group could not agree on a final recommendation.



The South Carolina Experience

- Doug Crossman, Director of South Carolina's Second Injury Fund, recommends that states consider the following when deciding whether to eliminate their SIFs:
 - The cost of SIFs should be spread across all employers;
 - Employers who qualify for reimbursement under a SIF must have their accounts adjusted accordingly (e.g., experience modification factors); and
 - If a SIF is not operating as originally intended, either eliminate the fund or make the necessary corrections to ensure its proper operation.



Possible Recommendations

- Phase out the Funds;
- Administrative changes; or
- Maintain the status quo.



Issues for Consideration

1. Utilization of the Funds;
2. Administration of three separate funds;
3. Uncertainty whether or not employers have adequate knowledge and understanding to access the Funds; and
4. The statute is silent concerning the removal of a charge from an employer's account for employers insured by private carriers.

APPENDIX H

Document titled "Subsequent Injury Analysis, FY 96-98" prepared by
the Administrative Services Unit, Division of Industrial Relations,
Nevada's Department of Business and Industry

Administrative Services Unit

Subsequent Injury Analysis

FY 96 - 98

Company Name	Summary		Assessment FY96	Reimbursement FY96	Assessment FY97	Reimbursement FY97	Assessment FY98	Reimbursement FY98
	Assessment Total FY96 - FY98	Reimbursement Total FY96 - FY98						
PETE WHITE CONCRETE, INC.	7,871	-			4,485		3,387	
PINKERTON'S, INC.	5,498	-	1,389		2,096		2,014	
PLACER DOME, INC.	1,016	-			1,016			
PLAYERS INTERNATIONAL, INC.	3,725	-	822		2,045		858	
POTLATCH CORPORATION	3,631	-	1,068		796		1,769	
PRATTE DEVELOPMENT COMPANY, INC.	17,199	-	1,984		5,432		9,783	
PRECISION CONCRETE	8,023	-	1,175		1,465		5,383	
PREFERRED EQUITIES CORPORATION	6,955	-	1,520		893		4,542	
PRICE/COSTCO, INC.	1,151	-	1,151					
PRIMEX PLASTICS CORPORATION	4,140	-	879		1,450		1,811	
PSP ROCKY MOUNTAIN	21	-	-		14		6	
PUBLIC AGENCY COMPENSATION TRUST		-	-		-		-	
QUORUM HEALTH CARE, INC.	7,131	-	2,367		1,881		2,883	
R. R. DONNELLEY & SONS CO.	3,806	-	1,258		815		1,833	
RALCORP HOLDINGS, INC.	4,459	-	1,868		1,115		1,476	
RALEY'S	27,287	-	5,118		6,784		15,385	
RALSTON PURINA COMPANY	1,008	-	1,008		-		-	
RENO-SPARKS CONV. & VISITORS AUTHORITY	1,292	-	142		345		805	
REPUBLIC INDUSTRIES, INC.	38,758	-			38,758			
RIO PROPERTIES, INC.	15,114	-	3,444		5,722		5,949	
RIVERBOAT HOTEL AND CASINO	5,333	-	1,435		703		3,195	
ROADWAY EXPRESS, INC.	3,273	-	1,016		496		1,761	
ROBROY INDUSTRIES, INC.	1,909	-	542		889		478	
RPS, INC.	772	-			572		200	
RT BIGELOW AFFILIATED COMPANIES	2,173	-			2,173			
RYKOFF-SEXTON, INC.	10,315	-	1,036		3,863		5,416	
SAFEWAY INC.	21,012	-			9,829		11,384	
SANDIA NATIONAL LABORATORIES	52	-	2		32		19	
SANDS REGENCY HOTEL & CASINO	6,838	-	1,990		2,054		2,795	
SANTA FE GAMING CORPORATION	30,532	-	6,493		5,488		18,552	
SANTA FE PACIFIC GOLD CORP	13,244	-	4,612				8,632	
SCOLARI'S WAREHOUSE MARKETS, INC.	24,085	-	5,178		7,819		11,089	
SEARS, ROEBUCK AND CO.	12,336	-	3,105		2,540		6,691	
SEQUA CORPORATION	1,314	-	205		430		679	
SERVICEMASTER MANAGEMENT SERVICES, L.P.	2,339	-			2,339			
SHERWIN-WILLIAMS COMPANY, THE	5,301	-	681		2,063		2,557	
SIERRA DEVELOPMENT COMPANY	5,121	-	1,385		1,415		2,321	
SIERRA HEALTH SERVICES, INC.	15,735	-	3,846		5,853		6,035	
SIERRA PACIFIC RESOURCES	28,871	-	7,283		6,394		13,194	
SIGMA-ALDRICH CORPORATION	1,840	-	412		286		942	
SILVER LEGACY RESORT CASINO	6,627	-	2,297		2,451		1,879	
SIZZLER RESTAURANTS INTERNATIONAL, INC.	2,569	-	549		409		1,610	
SKYLINE RESTAURANT & CASINO	1,389	-	537		191		642	

Subsequent Injury Analysis FY 96 - 98

Company Name	Summary		Assessment	Reimbursement	Assessment	Reimbursement	Assessment	Reimbursement
	Assessment	Reimbursement	Assessment	Reimbursement	Assessment	Reimbursement	Assessment	Reimbursement
	Total FY96 - FY98	Total FY96 - FY98	FY96	FY96	FY97	FY97	FY98	FY98
MANOR CARE, INC.	2,992	-	733		876		1,383	
MANPOWER HOLDING COMPANY	4,420	-	624		526		3,270	
MARNELL CORRAO ASSOCIATES, INC.	11,057	-	11,057					
MARNELL CORRAO ASSOCIATES, INC.	48,065	-			25,557		22,508	
MARRIOTT INTERNATIONAL, INC.	6,992	-	1,554		2,578		2,860	
MASCO CORPORATION	912	-			912			
MAX RIGGS CONSTRUCTION CO., INC.	10,418	-	500		3,799		6,119	
MAY DEPARTMENT STORES COMPANY	832	-	284		279		270	
MCCLASKEY, TOD E. DBA NEVADA PROPERTIES	9,021	-	1,809		2,543		4,670	
MCDONALD'S RESTAURANTS OF NEVADA, INC.	18,744	-	5,720		5,943		7,081	
MCDONALD'S SAFETY ASSOCIATION OF NEVADA	-	-	-		-		-	
MCKESSON CORPORATION	6,803	-	503		3,919		2,180	
MGM GRAND HOTEL, CASINO, & THEME PARK	79,466	-	23,158		22,948		33,360	
MICHELIN NORTH AMERICA, INC.	52	-			52			
MISSION OF NEVADA, INC.	2,119	-			2,119			
MONARCH CASINO & RESORT, INC.	3,968	-	1,070		1,067		1,831	
MONTGOMERY WARD & CO., INC.	7,505	-	1,718		2,063		3,724	
MORRISON KNUDSEN CORPORATION	5,979	-			2,552		3,427	
MOTOR CARGO	3,607	-	117		2,029		1,462	
MYR GROUP, INC.	1,229	-	44		799		386	
NEIMAN MARCUS GROUP	988	-	244		468		275	
NEVADA AUTO NETWORK	-	-	-		-		-	
NEVADA BELL	6,555	-	1,565		2,230		2,760	
NEVADA CASINO NETWORK SELF INSURED GROUP	-	-	-		-		-	
NEVADA CONTRACTORS NETWORK	-	-	-		-		-	
NEVADA READY MIX CORPORATION	35,438	-	6,113		12,412		16,913	
NEVADA RESORT PROPERTIES POLO TOWERS	1,374	-	340		477		557	
NEVADA RESTAURANT SELF-INSURED GROUP	-	-	-		-		-	
NEVADA RETAIL NETWORK	-	-	-		-		-	
NEVADA TRANSPORTATION NETWORK	-	-	-		-		-	
NEVADA, YELLOW AND CHECKER CAB CO.	27,652	-	5,349		9,659		12,645	
NEW YORK - NEW YORK HOTEL & CASINO	453	-			453		-	
NORTHERN PIPELINE CONSTRUCTION COMPANY	71	-			71			
OASIS RESIDENTIAL	3,357	-			1,785		1,572	
OCEAN SPRAY CRANBERRIES, INC.	1,598	-	455		630		513	
OGDEN CORPORATION	1,095	-			1,095			
OLSTEN CORPORATION	19,171	-	5,146		5,446		6,580	
PACCAR, INC.	64	-	35		8		20	
PAYLESS CASHWAYS, INC.	2,058	-	442		819		995	
PEGASUS GOLD CORPORATION	839	-	51		716		172	
PEPPERMILL CASINO'S, INC.	14,230	-	2,987		3,923		7,320	
PERINI CORPORATION	34,560	-	8,923		9,616		16,021	
PETE KING CORPORATION	14,431	-	1,467		4,172		8,792	

Administrative Services Unit

Subsequent Injury Analysis

FY 96 - 98

Company Name	Summary		Assessment FY96	Reimbursement FY96	Assessment FY97	Reimbursement FY97	Assessment FY98	Reimbursement FY98
	Assessment Total FY96 - FY98	Reimbursement Total FY96 - FY98						
HBR COMPANIES	9,049	-	1,115	-	1,102	-	6,832	-
HECLA MINING COMPANY	208	-	-	-	197	-	9	-
HOLLYWOOD PARK, INC (BOOMTOWN)	7,103	-	-	-	-	-	7,103	-
HOME DEPOT U.S.A., INC.	12,741	-	3,945	-	4,093	-	4,703	-
HOME SHOPPING NETWORK, INC.	-	-	-	-	-	-	-	-
HORIZON HEALTHCARE CORP.	27,499	-	5,128	-	7,488	-	14,885	-
HORSESHOE CLUB OPERATING COMPANY	34,051	-	9,387	-	9,864	-	14,800	-
IMPERIAL PALACE, INC.	11,254	-	1,902	-	4,197	-	5,155	-
INCLINE VILLAGE G.I.D.	7,320	-	1,157	-	2,741	-	3,422	-
INDEPENDENCE MINING COMPANY	14,013	-	2,650	-	6,092	-	5,270	-
INTERNATIONAL PAPER COMPANY	5	-	-	-	-	-	5	-
INT'L GAME TECH. (HOLDING CORP.)	21,754	-	4,947	-	6,833	-	9,974	-
ITT SHERATON CORPORATION	8,155	-	2,433	-	2,116	-	3,606	-
J. C. PENNEY COMPANY, INC.	31,488	-	6,745	-	7,181	-	17,542	-
JACK B. KELLEY, INC.	427	-	79	-	-	-	348	-
JACKPOT ENTERPRISES, INC.	15,329	-	3,931	-	5,045	-	6,353	-
JERRY'S NUGGET, INC.	1,470	-	20	-	854	-	595	-
JIM'S ENTERPRISES, INC.	1,708	-	-	-	1,035	-	674	-
JOE G. MALOOF AND COMPANY	6,104	-	1,219	-	3,180	-	1,704	-
JOHN H. BURROWS, INC.	6,471	-	731	-	4,088	-	1,653	-
JOHNSON GROUP, INC.	2,051	-	267	-	708	-	1,076	-
JP FOODSERVICES, INC.	663	-	-	-	663	-	-	-
KAL KAN FOODS INCORPORATED	54	-	-	-	47	-	6	-
KENNAMETAL INC., NEVADA DIV.	9,008	-	2,671	-	2,731	-	3,604	-
KERR-MCGEE CHEMICAL CORP.	12,464	-	3,293	-	2,888	-	6,284	-
KNIPP BROTHERS, INC.	22,199	-	6,774	-	5,898	-	9,527	-
LABOR READY, INC.	1,219	-	-	-	455	-	764	-
LAIDLAW, INC.	8,878	-	2,279	-	3,069	-	3,530	-
LAKEVIEW COMPANY	2,944	-	190	-	417	-	2,337	-
LANDSTAR SYTEM, INC. AND SUBSIDIARIES	-	-	-	-	-	-	-	-
LAS VEGAS METRO POLICE DEPT.	116,468	-	33,341	-	30,641	-	52,487	-
LAS VEGAS PAVING CORPORATION	20,297	-	845	-	9,421	-	10,031	-
LAS VEGAS SANDS, INC.	26,043	-	6,858	-	7,841	-	11,344	-
LAWRENCE LIVERMORE NATIONAL LABORATORY	294	-	156	-	-	-	138	-
LEVI STRAUSS & CO.	9,156	-	-	-	3,359	-	5,796	-
LEVI STRAUSS ASSOCIATES, INC.	955	-	955	-	-	-	-	-
LOS ALAMOS NATIONAL LABORATORY	7	-	-	-	-	-	7	-
LOUISIANA-PACIFIC CORPORATION	2,953	-	589	-	892	-	1,472	-
LVI ENVIRONMENTAL SERVICES GROUP, INC.	655	-	-	-	469	-	187	-
M & CONCRETE CO., INC.	16,353	-	3,544	-	4,068	-	8,740	-
M.A. HANNA COMPANY	78	-	13	-	68	-	-	-
MALLORY, INC.	2,644	-	819	-	-	-	1,825	-
MALLORY, INC. (SUPER SHOPS)	2,053	-	-	-	2,053	-	-	-

Subsequent Injury Analysis
FY 96 - 98

Company Name	Summary		Assessment FY96	Reimbursement FY96	Assessment FY97	Reimbursement FY97	Assessment FY98	Reimbursement FY98
	Assessment	Reimbursement						
	Total FY96 - FY98	Total FY96 - FY98						
CONSTRUCTION TRUST	-	-	-	-	-	-	-	-
COOPER INDUSTRIES, INC.	105	-	52	-	8	-	45	-
CORRECTIONS CORPORATION OF AMERICA	-	-	-	-	-	-	-	-
COSTCO COMPANIES, INC.	4,941	-	-	-	2,283	-	2,658	-
CUMMINS ENGINE COMPANY, INC.	-	-	-	-	-	-	-	-
CYPRUS AMAX MINERALS COMPANY	3,022	-	464	-	618	-	1,940	-
D.R. HORTON, INC.	5	-	-	-	3	-	1	-
DAYTON HUDSON CORPORATION	4,319	-	874	-	924	-	2,520	-
DELTA AIR LINES, INC.	3,268	-	-	-	399	-	2,869	-
DENTON-RAWHIDE MINE	5,952	-	1,128	-	1,380	-	3,444	-
DEPT. OF WATER & POWER, CITY OF LA.	47	-	15	-	7	-	25	-
DILLARD DEPARTMENT STORES, INC.	3,249	-	787	-	-	-	2,462	-
DILLARD'S, INC.	1,821	-	-	-	1,821	-	-	-
DOUGLAS COUNTY SCHOOL DISTRICT	8,190	-	1,457	-	1,994	-	2,739	-
E & H DISTRIBUTING	1,085	-	919	-	-	-	166	-
E.G. & H., INC.	4,204	-	748	-	1,132	-	2,324	-
ECHO BAY, INC.	25,494	-	6,645	-	6,904	-	11,944	-
ECKER ENTERPRISES, INC.	3,679	-	-	-	2,065	-	1,614	-
ELDORADO RESORTS LLC	13,687	-	3,761	-	3,948	-	5,979	-
ELKO COUNTY SCHOOL DISTRICT	6,322	-	1,382	-	1,872	-	3,068	-
ESQUIRE LTD, INC.	11,596	-	2,461	-	3,457	-	5,677	-
ETHEL M CHOCOLATES	5,984	-	1,864	-	634	-	3,486	-
EXBER, INC. AND GAUGHAN SOUTH CORP.	12,023	-	2,766	-	3,712	-	5,545	-
F.R., INC.	8,730	-	2,691	-	1,973	-	4,068	-
FEDERAL EXPRESS CORPORATION	26,658	-	6,565	-	7,940	-	12,153	-
FEDERAL SIGNAL CORPORATION	2,562	-	-	-	693	-	1,869	-
FITZGERALD'S RENO, INC.	14,177	-	3,222	-	3,298	-	7,656	-
FLYING J, INC.	1,379	-	163	-	280	-	938	-
FOUR QUEENS, INC.	14,574	-	3,628	-	3,663	-	7,283	-
FREEMAN DECORATING CO.	7,753	-	2,303	-	1,390	-	4,060	-
GANNETT CO., INC.	5,230	-	-	-	2,681	-	2,548	-
GEMINI, INC.	8,164	-	1,803	-	2,611	-	3,750	-
GENERAL BINDING CORPORATION	1,829	-	195	-	1,135	-	498	-
GEORGIA PACIFIC CORPORATION	1,875	-	310	-	884	-	701	-
GETCHELL GOLD CORPORATION	12,154	-	2,145	-	6,945	-	3,064	-
GORDON GAMING CORPORATION	3,937	-	530	-	2,439	-	987	-
GRINNELL CORPORATION	192	-	192	-	-	-	-	-
GRISWOLD MACHINE & ENGINEERING	41	-	-	-	9	-	31	-
H & O FOODS, INC.	234	-	234	-	-	-	-	-
HAMILTON HOLDING MANAGEMENT CORP.	6,134	-	1,843	-	2,049	-	2,243	-
HANSON PLC	12,001	-	2,709	-	3,619	-	5,673	-
HARVEY'S CASINO RESORTS	13,857	-	4,438	-	2,897	-	6,425	-
HAT, LTD	22,832	-	5,995	-	6,807	-	10,029	-

Administrative Services Unit

Subsequent Injury Analysis FY 96 - 98

Company Name	Summary		Assessment FY96	Reimbursement FY96	Assessment FY97	Reimbursement FY97	Assessment FY98	Reimbursement FY98
	Assessment	Reimbursement						
	Total FY96 - FY98	Total FY96 - FY98						
ATLANTIC RICHFIELD COMPANY	9,625	-	2,489		2,292		4,844	
B & BB, INC.	4,587	-	1,055		1,454		2,078	
BABY GRAND CORPORATION	10,230	-	3,028		2,222		4,981	
BALLY'S GRAND, INC.	14,059	-	14,059					
BANKAMERICA CORPORATION	8,156	-	2,228		2,508		3,420	
BARRICK BULLFROG, INC.	5,544	-			1,729		3,815	
BARRICK GOLD CORPORATION	1,793	-	1,793					
BARRICK GOLDSTRIKE MINES INC.	43,109	-			29,110		14,000	
BARRICK GOLDSTRIKE MINES, INC	8,101	-	8,101					
BATTLE MOUNTAIN GOLD CO.	5,601	-	989		1,720		2,892	
BECHTEL NEVADA CORP. (EX-MED)	3,442	-	3,442					
BECHTEL NEVADA CORP. ET AL	115,918	-	31,510		45,272		39,136	
BENTLY NEVADA CORP.	5,394	-	1,427		1,850		2,117	
BERRY-HINCKLEY COMPANIES, INC.	2,976	-	771		728		1,479	
BOARDWALK CASINO, INC.	122	-			122			
BOOMTOWN, INC.	6,469	-	2,786		3,683			
BRUCE INDUSTRIES, INC.	2,603	-	564		612		1,428	
BUILDERS SQUARE, INC.	704	-	258		252		193	
CAESARS WORLD, INC.	99,187	-	24,714		24,985		49,488	
CALIBER SYSTEM, INC.	11,555	-	3,274		3,096		5,185	
CAMCO INTERNATIONAL, INC.		-						
CANTEX INC.	1,707	-	327		250		1,130	
CARAMELLA-BALLARDINI, LTD.	15,807	-	3,820		5,769		6,218	
CARSON NUGGET, INC.	81	-			81			
CARSON VALLEY INN, INC.	7,077	-	109		3,461		3,507	
CASHMAN EQUIPMENT COMPANY	8,808	-	1,226		3,972		3,609	
CEDAR ENTERPRISES, INC.	4,085	-	612		940		2,533	
CENTEL CORPORATION	18,975	-	5,608				11,366	
CENTURY STEEL, INC.	20,087	-	3,216		8,220		8,650	
CITICORP	8,000	-	2,032		2,488		3,479	
CITY OF HENDERSON	14,448	-	3,459		5,662		5,326	
CITY OF LAS VEGAS	92,757	-	21,635		32,614		38,507	
CITY OF NORTH LAS VEGAS	27,839	-	6,038		10,189		11,614	
CITY OF SPARKS	19,413	-	5,681		3,392		10,360	
CLARK CO. SCHOOL DISTRICT	160,361	-	39,204		53,866		67,291	
CLARK COUNTY	215,328	-	50,158		66,268		98,903	
CLARK COUNTY SANITATION DISTRICT	6,574	-	1,969		1,352		3,253	
CMS INTERNATIONAL	7,867	-	1,562		2,536		3,769	
COEUR D'ALENE MINES CORPORATION	10,335	-	2,401		4,087		3,846	
COLUMBIA/HCA HEALTH CARE CORP.	65,367	-	16,592		18,296		30,476	
COMPUTER SCIENCES CORPORATION	27	-	27					
COMSTOCK HOTEL CASINO	8,765	-	2,053		2,817		3,894	
CONSTRUCTION INDUSTRY WORKERS' COMP. GROUP		-						

Administrative Services Unit

Subsequent Injury Analysis

FY 96 - 98

Company Name	Summary		Assessment FY96	Reimbursement FY96	Assessment FY97	Reimbursement FY97	Assessment FY98	Reimbursement FY98
	Assessment Total FY96 - FY98	Reimbursement Total FY96 - FY98						
ALBERTSON'S, INC.	47,492	83,292	7,465	68,315	21,076		18,951	14,977
AMERICAN STORES COMPANY	39,097	4,761	8,177	4,761	11,843		19,077	
AZTAR CORPORATION	62,740	107,379	15,658	67,462	18,922		28,159	39,916
BOYD GAMING CORPORATION	49,928	123,501	13,799	53,974	14,197	69,528	21,933	
CARSON CITY	17,128	49,310	4,824		4,505	49,310	7,799	
CASHMAN CADILLAC, INC.	2,043	2,494	430		357	2,494	1,256	
CIRCUS CIRCUS ENTERPRISES, INC.	262,072	57,536	58,473		74,249	57,536	129,349	
CITY OF RENO	60,876	186,481	14,420	177,479	19,308		27,148	9,002
COAST HOTELS AND CASINOS, INC.	25,458	18,514	5,924	18,514	8,836		10,697	
CSR AMERICA, INC.	15,549	23,724	3,267	23,724	5,652		6,431	
DIAL CORPORATION, THE	7,096	32,714	7,096			32,714		
EAGLE-PICHER INDUSTRIES, INC.	9,049	53,072	1,920		2,871		4,259	53,072
F & D ENTERPRISES	3,187	20,519	908		1,172	20,519	1,107	
HARRAHS ENTERTAINMENT, INC.	90,442	38,676	27,065	38,676	17,526		45,851	
HILTON HOTELS CORPORATION	184,436	1,621,043	36,990	245,710	46,763	1,035,623	100,684	339,710
HOWARD HUGHES CORP.		108,603						108,603
K-MART CORPORATION	60,032	94,091	13,020		18,911		28,102	94,091
MIKOHN GAMING CORPORATION	7,792	98,930	2,796	5,042	1,470	93,887	3,526	
MIRAGE RESORTS, INC.	114,223	23,672	29,967		32,111	23,672	52,145	
NEWMONT MINING CORPORATION	60,392	11,861	11,416		26,140		22,836	11,861
PRIMADONNA CORPORATION	24,321	27,730	5,688		8,705	27,730	9,929	
QUALITY MECHANICAL CONTRACTORS, INC.	6,393	13,032	1,599		1,943		2,851	13,032
RIVERSIDE RESORT & CASINO	21,065	77,308	5,265	21,957	6,989		8,812	55,351
RIVIERA HOLDINGS CORPORATION	18,594	23,850	3,574		5,068		9,941	23,850
SHOWBOAT OPERATING COMPANY	18,524	53,228	5,882	47,708	3,876	5,521	8,966	
SILVER STATE DISPOSAL SERVICE, INC.	72,630	54,023	24,769	54,023			47,862	
SMITH'S FOOD AND DRUG CENTERS, INC.	48,646	366,180	13,645	229,086	8,366	88,011	28,635	49,082
ST. MARY'S HEALTH CARE CORP.	21,921	71,770	4,826	71,770	7,492		9,602	
UNITED PARCEL SERVICE, INC. (OHIO)	64,715	17,620	13,431		24,951	17,620	26,333	
WASHOE COUNTY SCHOOL DISTRICT	39,025	8,381	8,920		12,988	8,381	17,117	
Subtotal	1,454,655	3,473,295	351,211	1,128,202	406,285	1,532,546	697,358	812,547
ABC UNION CAB COMPANY	28,251	-	6,310		10,492		11,450	
AETNA LIFE & CASUALTY	11	-	-		-		11	
ALLIANCE GAMING, INC.	13,757	-	2,667		5,075		6,014	
ALUSUISSE-LONZA AMERICA, INC.	343	-	1		45		297	
AMERICA WEST AIRLINES, INC.	13,145	-	393		6,786		5,966	
AMERICAN ASPHALT & GRADING CO.	1,404	-	76		370		958	
AMERISTAR CASINOS, INC.	13,965	-	2,415		3,389		8,162	
ANDERSON DAIRY, INC.	10,984	-	476		4,553		5,955	
APL HEALTHCARE GROUP, INC.	5,254	-	1,021		2,135		2,097	
ARKANSAS BEST CORPORATION	4,213	-	682		1,965		1,567	
AT&T CORPORATION	8,634	-	2,736		3,012		2,687	