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THE AMERICAN ASSOCIATION
OF
STATE COMPENSATION INSURANCE FUNDS

BRIEF IN SUPPORT OF AN EXCLUSIVE
STATE COMPENSATION INSURANCE FUND

Submitted to:

ALASKA LEGISLATIVE COUNCIL
JUNEAU, ALASKA
August 24-26, 1961

S. B. NO.

AN ACT

TO AMEND SECTIONS 4410, 4401, 4432, 4434, 4435, 4449, 4454, 4455, 4457 AND 4461, AND TO ADD A NEW SUB-TITLE, COMPRISING SECTIONS 4470 TO 4471.8, INCLUSIVE, TO CHAPTER 77 OF THE REVISED LAWS OF HAWAII 1945, RELATING TO WORKMEN'S COMPENSATION, INCLUDING THE CREATION OF AN EXCLUSIVE WORKMEN'S COMPENSATION INSURANCE FUND IN THE BUREAU OF WORKMEN'S COMPENSATION AND PRESCRIBING THE STRUCTURE, POWERS, AND PROCEDURES OF THE FUND AND THE RESPONSIBILITIES OF PUBLIC OFFICERS AND AGENCIES WITH RELATION THERETO; THE PROHIBITION OF THE WRITING OF WORKMEN'S COMPENSATION INSURANCE BY PRIVATE INSURANCE CARRIERS, AND MAKING THE NECESSARY PROCEDURAL CHANGES FOR THE TRANSITION THEREFOR; PROVISION FOR FURNISHING COMPENSATION TO PUBLIC OFFICERS AND EMPLOYEES; AND APPROPRIATING ONE HUNDRED THOUSAND DOLLARS TO THE FUND.

BE IT ENACTED BY THE LEGISLATURE OF THE TERRITORY OF HAWAII:

SECTION 1. A new subtitle is hereby added to Chapter 77 of the Revised Laws of Hawaii 1945, comprising sections 4470 to 4471.8, inclusive, to read as follows:

"WORKMEN'S COMPENSATION INSURANCE FUND

Sec. 4470. Creation of workmen's compensation insurance fund. There is hereby created in the bureau of workmen's compensation the workmen's compensation insurance fund for the purpose of insuring employers against liability for personal injuries or death sustained by their employees and of assuring to the persons entitled thereto the compensation and benefits provided by this chapter or by any act providing for compensation now or hereafter enacted by the Congress of the United States. Such fund shall consist of all moneys appropriated to the fund and all moneys paid to the fund to reimburse the fund under section 4455, of all premiums received and paid into the fund, of property and securities acquired by and through the use of moneys belonging to the fund, and of interest earned upon moneys belonging to the fund and deposited or invested as herein provided. Such fund shall be applicable to the payment of losses sustained on account of insurance, to the payment of expenses in the manner provided in this subtitle, and to the payment of premium for reinsurance.

The Territory of Hawaii shall not be liable beyond the assets of the fund for any obligations in connection therewith.

Sec. 4470.1. Insurance. The fund may transact workmen's compensation insurance required or authorized by the laws of the Territory and may insure employers against their liability for compensation or damages under this chapter or under the United States Longshoremen's and Harbor Workers Compensation Act as fully and to the same extent as any stock corporation or mutual association authorized to transact the business of workmen's compensation insurance in the Territory prior to the effective date of this section. The fund may sue and be sued in its own name. The fund may insure an employer against liability for damages arising out of personal injury to or death of his employees, including casual employees as well as employees whose remuneration, excluding overtime pay, exceeds one hundred dollars a week and persons employed in non-industrial employments to whom the employer has not elected to provide workmen's compensation, if the fund also issues workmen's compensation insurance to such employer. The fund may also issue policies covering self-employing persons insuring to them the same compensation provided for employees under this chapter.

Sec. 4470.2. Manager. 1. The director shall appoint, and may remove, a manager of the fund who shall not be subject to the provisions of chapter 2. With the exception of the person first appointed to the office of manager, the director shall consult with the advisory policyholders' committee before appointing a manager.

2. The manager of the fund shall be responsible for the direction and operation of the fund. He shall at all times administer the fund with due regard to the requirements of its business affairs and its obligations under its contracts and policies in force. He may perform all acts necessary or convenient in the exercise of any power, authority or jurisdiction over the fund, either in the administration thereof or in connection with the insurance business to be carried on by it. Subject to the provisions of chapter 2 and chapter 3:

(a) He shall appoint, and may remove, all officers and employees of the fund, and shall prescribe their duties;

(b) He may fix salaries, promote employees and transfer employees from their positions to other positions in the fund, and may abolish or consolidate positions.

3. The manager, with the advice of the advisory policyholders' committee, and subject to the approval of the director, shall contract for the services of a recognized insurance actuary or actuaries who shall be the technical adviser of the manager on matters relating to insurance rates of the fund, the establishing of reserves, and such other matters as are referred by the manager. At least once in each three year period an actuarial audit shall be made which shall cover premium rates, classifications, and all other matters involving the administration of the fund, and shall include recommendations for increasing the efficiency of the fund.

4. All business and affairs of the fund shall be conducted in the name of the workmen's compensation insurance fund, and in that name, and without any other name or title, the manager may perform the acts authorized by this subtitle.

5. The manager, and all officers and employees authorized to receive or disburse moneys of the fund, shall each give a bond in an amount prescribed by the governor, conditioned for the faithful performance of his duties. The premium or charge for the bond shall be paid by the fund as an expense of the fund. In place of individual surety bonds, the fund may obtain a master bond with a schedule attached containing the names of the officers and employees required to give bond and the amount for which each such person is bonded.

Sec. 4470.3. Advisory policyholders' committee, There is hereby created an advisory policyholders' committee, consisting of not less than five members appointed by the governor on nomination of the director. The size of the committee may be expanded to not more than eleven members so as to permit representation of all major classes of employers insured by the fund. Every person nominated by the director as an appointee to the committee, with the exception of those appointed the first year after the effective date of this section, shall be a policyholder in the fund for one year prior to his appointment and must continue in such status during the period of his membership. Members shall be appointed for terms of three years running with the officer, and shall serve without pay but shall be entitled to the actual and necessary expenses incurred by them in discharging their official duties.

The committee shall designate one of its members as chairman. It shall meet periodically at such times as it may determine and at the call of the manager on special occasions. At each periodic meeting the manager shall make a report covering the activities of the fund and the committee shall advise the manager as to matters referred to it by the manager. Any matter whatsoever relating to the fund may be considered by the board at any meeting.

Sec. 4470.4. Attorney. The attorney of the department shall be the attorney of the fund. He shall have such legal and other assistants as may be required, within the limits set forth in the budget of the fund.

It shall be the duty of the attorney to advise the manager of the fund upon all matters of law arising in connection with any contract or policy of insurance issued by the fund, and upon any claim or award of compensation. He shall appear as the attorney of record in all suits and other proceedings to which the fund or the manager is a party and may appear in all suits and other proceedings to which an employer insured by the fund is a party if the employer may have recourse against the fund as a result of any judgment or decree rendered in such action or proceeding. He shall conduct all appeals on behalf of such employers and on behalf of the fund itself, except where there is a divergence of interest between the employer and the fund, in which case he shall appear on behalf of the fund alone. He shall prescribe all claims against third parties under the subrogated rights of the fund. He shall have the right, subject to the approval of the manager, to employ special counsel in matters involving special difficulty, and to provide for the payment of their compensation and expenses out of the fund.

Sec. 4470.5. Treasurer. The treasurer shall be the custodian of all moneys and securities belonging to the fund, except as otherwise provided in this subtitle. The treasurer shall give a separate and additional bond in an amount prescribed by the governor conditioned for the faithful performance of his duty as custodian of the fund. All moneys which belong to the fund and are collected or received under this chapter shall be delivered to the treasurer and held by him. No moneys received or collected on account of the fund shall be expended or paid without first passing into the territorial treasury and being drawn therefrom, as provided herein.

Sec. 4470.6. Revolving fund. The manager of the fund may withdraw, without at the time presenting vouchers and itemized statements, a sum not to exceed in the aggregate

two hundred thousand dollars, to be used as a cash revolving fund. The cash revolving fund shall be deposited in such national banks or such banks doing business under the laws of the Territory as the director, on the recommendation of the manager and with the approval of the governor, may select. Security shall be furnished by the banks in the manner provided for the deposit of other territorial moneys. The auditor shall draw his warrants in favor of the manager for the amounts so withdrawn, and the treasurer shall pay such warrants from the moneys of the fund in his custody.

Expenditures from the cash revolving fund in payment on claims arising out of policies issued by the fund, or on account of the Territory, the counties or other political subdivisions in accordance with section 4455, may be made directly by check drawn against the banks in which the cash revolving fund is deposited and signed by the manager or by duly authorized subordinates. Reimbursement of the cash revolving fund for such expenditures shall be made monthly upon presentation to the auditor of an abstract or statement of such expenditures in such form, and accompanied by vouchers, as the auditor requires.

Sec. 4470.7. Rules. The manager shall propose rules for the conduct of the business of the fund, and may from time to time propose amendments to or repeal of any rule therefore adopted. With the exception of those rules adopted, amended or repealed in the first year after the effective date of this section, the manager shall first consult with the advisory policyholders' committee before submitting them to the commission. No rule, and no amendment or repeal of any rule, shall be effective unless approved by the commission. If the commission fails to act upon any such rule, or amendment or repeal, within thirty days after it is delivered, it shall be deemed to have been approved by it, but rules relating to the fixing of premium rates shall require the express approval of the commission.

The provisions of section 4112 shall not apply to the approval of rules adopted pursuant to the provisions of this section, nor to their amendment or repeal, except that the commission shall not approve any rule, or the amendment or repeal of any rule, relating to the fixing of premium rates until it holds a public hearing upon the proposed rule, or the amendment or repeal of the rule, and publishes it as is provided in section 4112.

Any person aggrieved by a rule of the fund may petition the commission for a review of the reasonableness or validity thereof. The commission may join in one proceeding all petitions alleging invalidity or unreasonableness of the same rule. A hearing shall be ordered by the commission if necessary to determine the issues raised. Notice of the time and place of hearings shall be given. If the issues have been considered in a prior proceeding, the commission may confirm the rule without holding a hearing. An appeal may be taken from the decision of the commission in the same manner as is provided for appeals under section 4113.

Sec. 4470.8. Bureau of workmen's compensation. Intra-departmental cooperation. The manager of the fund shall be in charge of the bureau of workmen's compensation. Officers and employees of the fund may be assigned to the bureau, including the division of industrial safety, on a part time or temporary basis so that the most efficient use of personnel will be furthered thereby.

The manager shall cooperate with the bureau of unemployment compensation in the consolidation of employers' payroll returns to the fund with employers' payroll returns under the Hawaii Unemployment Compensation law. Insofar as permitted by the federal standards, and notwithstanding the provisions of section 4274, there shall be a free exchange of information between the fund and the bureau of unemployment compensation, and cooperative employment of personnel in the obtaining of data, compiling of pertinent statistical reports, conducting of field audits, and the performance of similar services to the end that reporting by employers may be facilitated, conflicting requirements as to the keeping of records may be presented, and interruptions in the conduct of the employer's operations may be kept to a minimum.

Sec. 4470.9. Catastrophe surplus and reserves. Reinsurance. Ten per cent of the premiums collected from employers insured in the fund shall be set aside for the creation of a surplus until such surplus shall amount to the sum of one hundred thousand dollars, and thereafter five per cent of such premium, until such time as in the judgment of the manager, based upon the opinion of the fund's actuary, such surplus shall be sufficiently large to cover the catastrophe hazard. Thereafter the contribution to such surplus may be reduced or discontinued conditional upon constant maintenance of a sufficient surplus to cover the catastrophe hazard. Reserves shall be set up and maintained adequate to meet anticipated

losses and carry all claims and policies to maturity, which reserves shall be computed in accordance with approved actuarial practices. The fund may reinsure any risk or any part thereof.

Sec. 4471. Investment of surplus or reserve. Any of the surplus or reserve funds belonging to the fund may, by order of the manager, approved by the insurance commissioner, be invested in or loaned on the pledge of any of the securities enumerated in subparagraphs (b), (c), (d), (e), and (f) of paragraph 1 of section 8494. All such securities or evidences of indebtedness shall be placed in the hands of the treasurer who shall be the custodian thereof. He shall collect the principal and interest thereof, when due, and pay the same into the fund. The treasurer shall pay all vouchers drawn on the fund for the making of such investments, when there is attached to such vouchers the approval of the insurance commissioner. The manager may, upon like approval of the insurance commissioner, also sell any of such securities.

Sec. 4471.1. Administration expenses. The entire expense of administering the fund shall be paid out of the fund upon vouchers approved by the manager or his duly authorized subordinates. After consultation with the advisory policyholders' committee, there shall be submitted quarterly for the information of the director and commission a budget of expenditures for the succeeding three months having due regard to the business interests and contract obligations of the fund. A copy of the budget shall be made in administering the fund in excess of the proposed budget. The purchase of supplies and equipment for the fund shall be through the supplies division in the bureau of the budget. Except for the years 1955 and 1956, in no case shall the expense of administering the fund for an entire year exceed twenty-five per cent of the earned premiums for that year.

If there are officers or employees of the fund whose duties relate partly to the general work of the department or bureau and partly to the work of the fund, and in case there is other expense which is incurred jointly on behalf of the general work of the department or bureau and the fund, an equitable apportionment of the expense, approved by the director of the bureau of the budget, shall be made and the part thereof which is applicable to the fund shall be chargeable thereto. The expenses of the auditor and the bureau of the budget incurred in connection with the work of the fund, and the expenses of the treasurer incurred in connection with the duties imposed by sections 4470.5 and 4471, shall be a

charge against and be paid out of the moneys of the fund as an expense of administering the fund. The manager shall include in his annual report a statement showing the expense of administering the fund for the preceding year, which shall include reference to the cost of services rendered by the auditor, bureau of budget, and treasurer allocated to the fund as fund expenses.

Sec. 4471.2. Payment of premiums. Premiums for any policy period shall be paid into the fund at the beginning of the period according to the estimated expenditure of wages for the period. At the end of the period an adjustment of the premium shall be made according to the actual expenditure of wages. If such adjusted premium is more than the premium paid at the beginning of the period, the employer shall pay the difference immediately upon notification of the amount of the true premium and the difference due. If such adjusted premium is less than the premium paid in advance, the employer shall, at his option, receive either a refund of the difference or a credit of the amount thereof on his account with the fund. In lieu of an adjustment at the end of a full policy period, shorter periods for the making of adjustments may be provided for with the advance premium paid at the beginning of each period and prior to the next adjustment, being an amount estimated to be payable for that ensuing period.

Sec. 4471.3. Collection of premium in case of default. If an employer shall default in any payment required to be made by him to the fund after due notice, his insurance in the fund may be cancelled and the amount due from him shall be collected by civil action brought against him in the city and county of Honolulu unless the employer has his principal place of business in another county in which the fund maintains an office, in which case it shall be brought in such county. When collected, the amount due shall be paid into the fund, and such employer's compliance with the provisions of this chapter requiring payments to be made to the fund shall date from the time of the payment of the money to the fund.

Sec. 4471.4. Withdrawal from fund. 1. Any employer may withdraw from the fund by turning in his insurance contract for cancellation, provided he has given written notice of his intention to withdraw not less than thirty days before the expiration of the period of insurance stated in his insurance contract.

2. The fund may cancel a contract of insurance at any time during the contract period upon being furnished by an employer with proof satisfactory to the fund that he is no longer required to secure compensation to his employees by reason of his having discontinued, sold, transferred, assigned or otherwise disposed of his business and has ceased employing workmen or operatives; or, where the insurance contract has been issued to cover the operations under a specific contract or at a specified location, that such operations have been completed or discontinued, and the employment of workmen or operatives in connection therewith has ceased.

Sec. 4471.5. Wilful misrepresentation. Any person who wilfully misrepresents any fact in order to obtain insurance in the fund at less than the proper rate for such insurance, or in order to obtain payment out of such fund, shall be guilty of a misdemeanor.

Sec. 4471.6. Rates. Employments and employees insured by the fund shall be divided into such groups and classes as shall be equitably based upon differences of industry or hazard for the purpose of establishing premium rates, and for such purpose a system of merit rating may be employed which shall take account of the peculiar hazard of each individual risk. Within each class of business insured, rates shall be fixed, so far as practicable, in accordance with the following elements:

- (a) Bodily risk or safety, or other hazard of the plant, premises or work of each insured employer;
- (b) The manner in which the work is conducted;
- (c) A reasonable regard for the accident experience and history of each insured;
- (d) A reasonable regard for the insured's means and methods of caring for injured persons.

The extent to which the employees in any particular establishment have or have not persons dependent upon them for support shall not be taken into account in the fixing of rates.

Rates shall be fixed on the basis of a percentage of the employer's payroll so as in the long run, and on the average, to produce a sufficient sum, when invested at generally prevailing interest rates:

(a) To carry all claims to maturity. The rates shall be based upon the "reserve" and not upon the "assessment" plan.

(b) To meet the reasonable expenses of conducting the business of the fund, including all services furnished to the fund by the Territory, or officers or agencies thereof.

(c) To produce a reasonable amount, as determined by the director of the bureau of the budget, to reimburse the Territory for the money advanced by the Territory to the fund together with three per cent interest thereon, for the gross premiums lost to the Territory by the prohibition against the writing of workmen's compensation insurance by private insurance carriers, and for the proportionate cost of maintaining the workmen's compensation bureau, and the proportionate cost of the industrial accident boards and the appeal board due to workmen's compensation appeals.

Sec. 4471.7. Record and audit of payrolls. Every employer who is insured in the fund shall keep a true and accurate record of the number of his employees, hours worked, and the wages paid by him, and shall furnish, upon demand, a sworn statement of the same. Such record shall be open to inspection at any time and as often as may be necessary to verify the number of employees, hours worked, and the amount of the payroll. Any employer who shall fail to keep such record or who shall wilfully falsify any such record, shall be guilty of a misdemeanor.

Sec. 4471.8. Disclosures prohibited. Information as required by the fund, or its officers or employees, from employers or employees pursuant to this chapter shall not be open to public inspection, and any officer or employee who, without authority of the manager or pursuant to the fund's regulations, or as otherwise required by law, shall disclose the same shall be guilty of a misdemeanor."

SECTION 2. Section 4110 of the Revised Laws of Hawaii 1945, is hereby amended by amending the last sentence of the second paragraph thereof to read as follows:

"In considering any appeal the appeal board may call upon the director and the workmen's compensation insurance fund for any and all data and information available which may be pertinent thereto."

SECTION 3. Section 4401 of the Revised Laws of Hawaii 1945, as amended, is hereby amended by adding thereto the following:

"Fund" means the workmen's compensation insurance fund created by section 4470. Whenever "insurance carrier" is used in this chapter, it shall include the workmen's compensation insurance fund unless clearly inapplicable to the fund.

"Manager" means the manager of the workmen's compensation insurance fund."

SECTION 4. Section 4432 of the Revised Laws of Hawaii 1945, is hereby amended to read as follows:

"Sec. 4432. Director; workmen's compensation insurance fund; jurisdiction and administration of chapter. The director, through the bureau of workmen's compensation, shall have original jurisdiction over all injuries to employees and all matters of administration coming within the purview of this chapter except as otherwise provided herein. The head of the bureau of workmen's compensation and his staff shall investigate to such extent as may appear necessary every injury to employees of employers not insured by the fund within the purview of this chapter, which may be reported to or come to the notice of the bureau, and shall report the results of such investigation, with recommendations, to the director. The commission may make rules, not inconsistent with this chapter, for the carrying out of the provisions of this chapter, which, when promulgated in the manner provided by chapter 71, shall have the force and effect of law.

Every injury to employees of employers insured by the fund within the purview of this chapter shall be investigated by the fund to such extent as may appear necessary. Whenever the director is authorized or required to make an order or take any action under the provisions of section 4411, 4415, 4416, 4417, 4417.01, 4417.02, 4421, 4422, 4423, 4424, or 4425 with relation to an employee of an employer insured by the fund, the action of the manager or the duly authorized subordinates of the manager shall, in the first instance, have the force and effect of an order or action of the director, but the employer, the employee, or any interested person may request a decision by the director through hearing by the bureau in the same manner as for employees of employers insured by private insurance carriers on the effective date of this section. In such case, no officer or employee of the fund who formally

determined the action taken by the fund or who was consulted in any capacity other than as legal advisor shall take part in the hearing by the bureau except as a witness.

Blank forms requisite to facilitate or promote the efficient administration of this chapter shall be furnished free of charge to any employer or employee. The blanks shall also be furnished to the clerks of the respective circuit courts, who shall furnish the same to any employer or employee free of charge."

SECTION 5. Section 4434 of the Revised Laws of Hawaii 1945, is hereby amended to read as follows:

"Sec. 4434. Agreements. If an employer not insured by the fund and the injured employee reach an agreement in regard to compensation under this chapter, a memorandum of the agreement shall be filed with the director, and if approved by him, thereupon the memorandum shall for all purposes be enforceable under the provisions of section 4447, unless modified as provided in section 4441. The agreement shall be approved by the director only when the terms conform to the provisions of this chapter. No agreement between the parties for a lesser sum than that which may be determined by the director to be due shall operate as a bar to the determination of the controversy upon its merits, or to the award of a larger sum, if it be determined by the director that the amount agreed upon is less than the injured employee or his dependents are entitled to receive.

With regard to employees of an employer insured by the fund, the agreement reached between the fund, on behalf of the employer, and the injured employee shall be considered approved by the director, and shall be enforceable under the provisions of section 4447, unless modified as provided in section 4441, in the same manner as an agreement between an employer not insured with the fund and his injured employee."

SECTION 6. Section 4435 of the Revised Laws of Hawaii 1945, as amended, is hereby amended to read as follows:

"Sec. 4435. Award. If the compensation is not settled by agreement, the director shall, upon the filing with the bureau of a copy of the claim for compensation or on notice from the fund, make such further investigation as he shall deem necessary, shall make an award which shall be filed with the record of proceedings, shall state his conclusions of fact and ruling of law, and shall

immediately send to the parties a copy of the award."

SECTION 7. Section 4449 of the Revised Laws of Hawaii 1945, as amended, is hereby amended by adding a new paragraph at the end thereof to read as follows:

"With respect to employers insured by the fund, reports deposited in the United States mail addressed to the fund containing the information required by this section or the obtaining of such information by the fund within the time limit specified in this section for the making of the reports shall be deemed compliance by the employer with the requirements of this section."

SECTION 8. Section 4454 of the Revised Laws of Hawaii 1945, is hereby amended to read as follows:

"Sec. 4454. Security for payment of compensation; misdemeanor. Employers, but not including the Territory, all counties, or all other political subdivisions within the Territory, shall secure compensation to their employees in one of the following ways:

(a) By insuring and keeping insured the payment of compensation with the workmen's compensation insurance fund; or

(b) By insuring and keeping insured the payment of compensation with any stock corporation or mutual association authorized to transact the business of workmen's compensation insurance in the Territory under a policy written prior to July 1, 1955, but no new policy of workmen's compensation insurance shall be written on or after that date nor no existing policy be extended beyond the date it would normally expire or be renewed on or after July 1, 1955, by any stock corporation or mutual association authorized to transact insurance in the Territory; or

(c) By obtaining and keeping in force guarantee insurance with any company authorized to do such guarantee business within the Territory under a policy of guarantee insurance written prior to July 1, 1955, but no new policy of guarantee insurance shall be written on or after that date nor no existing policy be extended beyond the date it would normally expire or be renewed on or after July 1, 1955, by any company authorized to do such guarantee business within the Territory.

(b) By depositing and maintaining with the territorial treasurer security satisfactory to the director securing the direct payment by the employer of compensation and benefits herein provided according to the terms of this chapter; or

(e) By furnishing satisfactory proof to the director of the solvency of the employer and his ability to pay directly the compensation and benefits herein provided according to the terms of this chapter.

Any person who wilfully misrepresents any fact in order to obtain the benefits of this section shall be guilty of a misdemeanor. Any decision of the director rendered under the provisions of subdivisions 4 and 5 of this section with respect to the amount of security required or refusing to permit security to be given shall be subject to review on appeal by the appellate board and the circuit court in like manner as appeals are permitted under sections 4442-4443."

SECTION 9. Section 4455 of the Revised Laws of Hawaii 1945, is hereby amended to read as follows:

"Sec. 4455. Territory, counties, and political subdivisions. On and after July 1, 1955, the Territory, each county, and all other political subdivisions shall secure compensation to their employees through the adjustment and disposition of claims for workmen's compensation by the fund. The fund may make all expenditures, including payments to claimants for medical care or for adjustment or settlement of claims, necessary to the adjustment and final disposition of the claims of their employees. The Territory, each county, and all other political subdivisions shall each reimburse the fund for the expenditures of the fund on their account and for the actual cost of services rendered to them by the fund out of moneys appropriated for that purpose, or if there are none, then from the funds appropriated for the support of or expenditure by the Territory, county, or other political subdivision, respectively. In lieu of computing the actual cost of services rendered in each case, the fund may establish a method for reimbursement reasonably calculated to repay the fund for all services rendered in a designated period of time to the Territory, each county or other political subdivision. This section shall not prevent the continuance of insurance by the Territory, any county, or any other political subdivision under a policy written by an authorized insurance carrier prior to July 1, 1955, but the renewal or extension thereof shall be subject to the provisions of section 4454.

The fund may in its own name, or in the name of the Territory, the county, or other political subdivision for which services are performed, do any and all things necessary to recover on behalf of the Territory, the county, or other political subdivision for which it renders such services any and all amounts which an employer might recover from third persons under section 4409, including the right to commence and prosecute actions, to intervene in other court proceedings, and to compromise claims and actions before or after commencement of suit."

SECTION 10. Section 4457 of the Revised Laws of Hawaii 1945, is hereby amended by deleting the second paragraph and substituting therefor the following:

"All insurance policies, except those of the fund, shall be of a standard form, the form to be designated and approved by the commissioner of insurance of the Territory. No policy of insurance different in form from the designated and approved form shall be approved by the director."

SECTION 11. Section 4461 of the Revised Laws of Hawaii 1945, is hereby amended to read as follows:

"Sec. 4461. Assumption of liability by fund. If an employer is insured against liability for compensation with the fund, and if after the suffering of an injury the fund serves upon the compensation claimant a notice that it has assumed and agreed to pay any compensation to the claimant for which the employer is liable, the employer shall thereupon be relieved from liability for compensation to the claimant. The fund shall, after notice, be substituted in place of the employer in any proceeding instituted by the claimant to recover compensation, and the employer shall be dismissed therefrom."

SECTION 12. There is hereby appropriated to the workmen's compensation insurance fund out of the general fund of the Territory of Hawaii the sum of one hundred thousand dollars, or so much thereof as shall be necessary. The sum so appropriated shall be repaid to the general fund by the workmen's compensation insurance fund, together with interest at the rate of three per cent per annum while such sum is retained by the workmen's compensation insurance fund.

SECTION 13. If any provision of this Act, or its application to any person or circumstance, is held invalid, the remainder of the Act, or the application of the provisions to other persons or circumstances is not affected.

SECTION 14. This Act shall take effect upon its approval.

INTRODUCED BY:

THE AMERICAN ASSOCIATION
OF
STATE COMPENSATION INSURANCE FUNDS

BRIEF IN SUPPORT OF AN EXCLUSIVE
STATE COMPENSATION INSURANCE FUND

August 18, 1961

TO THE HONORABLE MEMBERS OF THE ALASKA
LEGISLATIVE COUNCIL:

In compliance with your request The American Association of State Compensation Insurance Funds submits for consideration a brief in support of its belief that an Exclusive State Compensation Insurance Fund should be established in the State of Alaska.

I

HISTORICAL BACKGROUND

A. Employers' Liability Under the Common Law

Historically the society in which we live, as the result of practical expediency, evolved the principle of social duty which requires that every man in the management of his own affairs, whether by himself or his agents, so conduct them as not to injure another. If he fails reasonably to safeguard others, and another thereby sustains damage, he must answer for it.

The English common law originally drew no distinction between the legal rights of an injured servant and those of other persons to whom the master might also owe a duty to exercise ordinary and reasonable care. The master had no special duty to safeguard his servant from injuries sustained in the course of his employment. Where no fault was attributable to the master, the burden of an industrial accident fell solely on the servant.

The common law was a fluid system of jurisprudence, adapting for centuries to the changing needs and customs of the society it served. When agriculture was the dominant economy, trade and industry were of minor importance. The early manufacturing units were the home. The employees were few, the tools simple and the hazards minor. No need existed for the creation of special rights and liabilities affecting injuries sustained by servants in their masters' service.

In the latter part of the eighteenth century the development of the steam engine and mechanical power brought into existence many new industries. The Industrial Revolution gave rise to a wholly different economy. Trade and industry flourished. Manufacturing moved from the home to large factories, bringing large concentration of workers. Unskilled, untrained and undisciplined workers were exposed to unfamiliar and dangerous machinery and processes. The corporate form of ownership took over the management of these new industries, largely eliminating the former personal relationship that existed between master and servant.

Under the common law an injured employee was obliged to seek redress in the courts basing his claim on the employer's negligence. In such actions the employee not only had the burden of proving negligence on the part of his employer, but also had to overcome the employer's common law defenses of (1) contributory negligence of the employee, (2) the fellow-servant rule -- that an injured employee could not recover from his employer where the injury was caused by the negligence of a fellow-employee and, (3) the assumption of risk doctrine -- where the employee, knowing the facts and understanding the risks involved, voluntarily entered or continued in the employment.

B. Employers' Liability Laws

The harshness of the various common law defenses, and the inadequacy of the law to protect the injured employee, at a time when, owing to the rapid mechanization of industry, the

need of it was constantly increasing, began to create dissatisfaction. It was becoming increasingly evident that the common law remedies were no longer adequate to meet the needs of the newly created industrial relationships.

Actuated by the increasing social consciousness of the injustice of the old common law defenses under the new conditions of industry, modifications of these defenses were enacted into law.

Liberal though the modified Employers' Liability legislation was by comparison with the old common law standards, it still limited recovery by injured workmen to cases where fault of the employer could be established. Injured employees still had to go to court to prove themselves entitled to damages. The costs, delays and inadequacies of the system proved increasingly unsatisfactory as the march of industrial progress continued at a rapid pace, adding immeasurably to the problem.

"Industrial development of the past thirty years has impressed the economist and the legislator, more than ever before, with the rightful interest of the general public in industrial accidents. .

"It has become obvious that our common law and pre-compensation statutory law is not sufficiently elastic and is too unscientific and uncertain to mete out even justice to

victims of such accidents. As a result they frequently became public charges.

"Statistics show that approximately forty percent of the industrial accident causing disability are due neither to the fault of the employer nor the employee. Hence this forty percent of such accidents and the additional thirty percent which are due principally, though not intentionally, to the fault of the employee, were not compensated under our pre-compensation statutory and common law system, for the reason that compensation or damages under that system depends entirely upon establishing the fact of fault or negligence of the employer as the proximate cause of the personal injury. This means that approximately seventy percent of the wage loss caused by disability, due to industrial work accidents, was borne by the workers themselves. There seems to be no sound reason why they should bear that part of the cost of the finished product of an industry."

1 Workmen's Compensation
Text, Schneider, 2.

The distress and economic insecurity thrust upon the victims of industrial injuries assumed the proportions of a social problem for which society was compelled to seek a solution.

Society needed such protection as much as the individual because ultimately society must bear the burden, financial and otherwise of the heavy losses which accidents entail.

C. Workmen's Compensation Legislation

It was apparent that accidents were a natural, and to some degree, an inevitable concomitant of an industrial economy; that fault was not the proper criteria for predicating the employer's -- industries' -- responsibility. The solution was found in the enactment of workmen's compensation laws. Under these laws workmen were to be cared for when injured in an industrial accident without regard to whose fault caused the incident.

"The question of fault, blame, wrongdoing, wrongful acts of omission or commission, duty, dereliction or neglect are not involved in the right to or liability for compensation."

1 Workmen's Compensation
Text, Schneider, 12.

While the duty of providing medical care and indemnity benefit was placed on the employer, it was also recognized that the economic loss attendant upon industrial injuries, as well as the breakdown and damage of machinery and equipment, should be borne by industry just as other costs of production are assumed by the employer and ultimately passed on to the consuming public.

"To obviate these conditions it was thought the industry to which the employees contributed their labor should bear the expense of all such economic burdens which become a legitimate part of the commercial life as the 'overhead' cost. They might be catalogued with breakage and wear and tear of machinery and equipment, all of which are, in the final analysis, borne by the community, and such compensation may safely be said to be a charge upon the community rather than the industry, because the expense thereof is always included in the sale price of the commodity, and hence is paid for by the consuming public. It is merely an element in the cost of production added to the cost of the article and borne by the community in general."

1 Workmen's Compensation
Text, Schneider, 8.

The major defects in the common law system were removed.

"One of the main purposes of the acts is to provide prompt and reasonable compensation for the employee without delay or expense, to simplify all proceedings under the law, to make them as 'simple, inexpensive and informal as possible,' and compensate injured employee claimants at rates which

the law itself directly or indirectly.

fixes. ...

"Primarily the acts are intended to provide financial protection against workmen and their dependents becoming public charges because of the risks and hazards of the workmen's employment, by assuring the compensation prescribed by the acts."

1 Workmen's Compensation
Text, Schneider, 13.

II

SYSTEM BASED ON INSURANCE PRINCIPLES

A. Distribution of Risk

If each employer had to bear the direct claims cost of industrial injuries sustained by his employees, it would guarantee financial failure for many, particularly those in the "small business" group, and in high hazard industries many "big business" employers could not long survive. To make the program workable a means of distributing the risk among all employers was needed. Insuring each employer's liability was settled upon as the most practical solution. Prompt and certain furnishing of medical, surgical, hospital and nursing care and payment of indemnity benefits were assured to industrially injured employees or their dependents. Reasonable costs equitably distributed were assured to employers.

B. Premiums

The cost of workmen's compensation insurance is paid for by each employer on the basis of established rates applicable to each \$100 of payroll.

Rate structures are based on the statutory benefit levels, the cost of medical, hospital, nursing, etc. care, rehabilitation costs where prescribed by statute and expense loading. Through the classification of occupations, measured against the loss experience of the industry for each occupation, a basic premium rate per \$100 of payroll is established for each job.

Individually, employers enjoy deviations from the basic rate based on merit rating. Consideration is given to the factors of safety in the particular plant or factory. Further, the employer's accident frequency influences deviations from the basic rate, upward or downward. Additionally where the plan is adopted, employers may participate in a dividend at the expiration of the policy year if their loss experience record is satisfactory.

C. Program Self-Supporting

The insurance program is entirely self-supporting. Premiums paid and investment income are the sole sources of revenue. No subsidization is needed or required from the state.

III

THE EXCLUSIVE STATE FUND

The workmen's compensation law grew out of the desperate need of the workingman and his family for help in the time of crisis resulting from an industrial injury. Private enterprise would not provide the solution. The injured workman's government had to come to his aid with a form of social legislation that was bitterly opposed when it was proposed, but is today, after some ~~forty~~ years of experience, staunchly supported by both labor and management.

A. Coverage Available for All Employers

The certainty of payment of compensation benefits to the injured workman is largely dependent upon his employer's ability to adequately insure his compensation liability regardless of the nature, size or hazards of the business carried on. The exclusive state fund alone can provide this coverage to every business operation conducted within the state.

The insurance history of this program shows that private carriers have not measured up to this task. In 1935 when New York's law was amended to provide occupational diseases coverage, which included silicosis and other respiratory diseases, numerous employers had their policies canceled by private carriers. Had it not been for the availability of the State Fund these employers would have had to bear the entire cost of injuries in this category. In the 1920's the private carriers refused to insure

coal mining operations in Colorado, despite the fact that this was one of Colorado's major industries. Many carriers will not insure metal mining, timber and lumbering operations. The Colorado Fund has welcomed these risks. What happened in New York and Colorado has also happened in other states.

Even more subtly, in times of economic stringency, many private carriers pursue the practice of "adverse risk selection." They will only insure the profitable accounts. Small and marginal employers are rejected as undesirable risks. They must then seek coverage from a state fund, if available, or obtain coverage as a participant in an assigned risk pool at very high cost.

These problems do not confront employers of an exclusive fund state. The fund insures all employers, the large, the small; the non-hazardous, the hazardous; the good risk, the bad risk.

The exclusive state fund's coverage is the truly classical application of the distribution of risk among many for the benefit of all.

B. Unnecessary Costs Eliminated

The cost of compensation insurance is a factor of prime importance to the employer, the consumer of his services and products and to the injured workman.

1. Acquisition Cost

One of the items of expense included in the premium rates charged for insurance is the cost of acquiring business. In the case of private carriers this means the commissions paid to brokers and agents for soliciting the business. According to the figures of the National Council on Compensation Insurance acquisition costs are set at 17.5%

In an exclusive fund state, employers do not have to bear the expense of the keen competitive bidding for business practiced by the private carriers. No commissions are paid to brokers and agents. Employers know exactly where to place their business. Salaried underwriting personnel can render this service at a substantial direct saving to the employer.

2. Profits

Stock carriers are necessarily in business to earn profits for their stockholders. The premium rate must necessarily include some provision for profits. The National Council on Compensation Insurance sets this factor at 2.5%.

While mutual companies do not have stockholders to provide for, provision is made for very substantial salaries for the executive officers.

Neither of these items is a factor of expense with an exclusive state fund. Since an exclusive state fund does not conduct its business to make a profit or pay "luxury" salaries

to its executive officers, these savings redound to the employer in the form of less costly premium rates.

C. High Level Safety Program at Reasonable Cost

Compensating industrially injured employees is not the sole objective of workmen's compensation. Prevention of industrial accidents ranks high among the major objective of the program. The state may provide for a broad program of safety in employment as well as in other public fields. However, these means alone are not sufficient. The active participation of all employers in safety programs is a prime requisite. Insurance is the prime vehicle for motivating employers to affirmatively campaign for "on the job" safety. Industry bears the entire cost of industrial injury. The distribution of this cost by insurance premium based upon payroll and modified by merit rating and accident experience is the strongest single factor in developing accident prevention work.

Private carriers provide technical experts to survey and inspect plants of employers insured by them in order to recommend safety devices and methods which will prevent industrial accidents. The costs for this service must be borne by the carriers. The quality of this service has a direct relationship to the volume of business each carrier does in the state. Thus a large volume carrier may provide its employers -- especially the large accounts -- with excellent safety services. However, the medium and small volume carrier cannot provide adequate safety

services because their volume of business cannot support the cost.

The exclusive fund can provide safety service equal in quality, if not better, to that of the large volume private carriers. Not only can an exclusive fund's staff of technical experts provide safety services of high quality, but the exclusive fund can work cooperatively and closely with local safety enforcement agencies, where "reluctant" employers are encountered, without "fear of losing the business."

Enjoying "all of the business" the exclusive fund can allocate a small percentage of its income BUT a substantial number of dollars to high quality accident prevention work at a lower cost to employers as compared with the variable quality of safety service provided by a multiplicity of private carriers, and at an overall greater cost because of the duplication of effort.

D. Efficient, Economical Operation

The standards by which the successful administration of workmen's compensation insurance is measured from the point of view of the injured employee are:

1. The promptness with which benefit payments are commenced after an industrial injury occurs.
2. The quality of the medical care furnished the injured employee.

3. The degree of rehabilitative care provided an industrially injured employee to return him to his job or to return him to gainful employment within his capacities.

Achieving these goals are the product of experienced leadership. Experienced dynamic officials can achieve this end. Employment with an exclusive fund can offer a career of rewarding humanitarian service. The exclusive fund personnel become experts in workmen's compensation insurance. Its departments are organized and trained to handle volumes of discretionary judgments.

As efficiency increases, the cost of operation decreases. High efficiency and expertise will result in greater services being rendered to industrially injured employees and to policyholders.

E. Statistical Control

Statistical data is one of the most important working tools of workmen's compensation insurance. Statistical data is management's "yardstick" for measuring performance. An exclusive state fund has all necessary raw data under its control and available for comprehensive and prompt development. Areas of weakness can be readily identified and prompt steps can be taken to remedy the deficiency.

F. Products of Local Effort

An exclusive state fund provides employment for its own citizens. Their salaries are all spent within the state thus contributing to the domestic economy. An exclusive fund's income is all spent within the state, whether it be indemnity payments, payments for medical and hospital care, rehabilitation, dividend payments to policyholders or earnings from investment income. No part of high executive salaries or profits are syphoned off to a central office in another state as is the case with private carriers.

G. Lower Cost of Government

A state that is deeply concerned with the financial responsibility of private carriers to discharge their monetary obligations to both employers and industrially injured employees cannot be content to let the industry "police itself." Government supervision over the private carriers must be exercised with diligent, meticulous care. Some governmental agency must be charged with the duty of licensing carriers to engage in the workmen's compensation insurance business in the state; adequate deposits of securities or performance bonds must be required; periodic audits of private carriers' books must be made; strict surveillance of the premium rate structure must be maintained; forms of policies and endorsements must be reviewed and passed upon; agents and brokers must be examined, qualified and licensed; investigations, hearings and disciplinary actions must

be had to remove undesirable carriers and licensed personnel from the scene.

All these matters of government supervision and regulation must be paid for out of tax revenues. All of these activities add substantially to the cost of government.

An exclusive fund, while not free from state regulation and control, does not occasion the need for the massive and costly supervision and control that must be exercised over the numerous private carriers seeking to do business in the state. Moreover, the supervision and regulation exercised over an exclusive state fund can be charged to it and paid for out of its income -- at no expense to the state.

H. Self-Supporting Agency

An exclusive state fund is not a burden on the taxpayers. It is an entirely self-supporting agency.

Its sources of income are two-fold: a) earned premiums received from policyholders and b) investment earnings derived from the investment of funds.

IV

EXCLUSIVE STATE FUND vs. PRIVATE CARRIERS

A. Government's Responsibility

The workmen's compensation law was responsible government's solution to a serious social problem. It was found

that a compulsory system was necessary to cure the existing social evil. The vigorous opposition of private insurance carriers to the program prompted a number of legislatures to create State Compensation Insurance Funds so that employers would be able to obtain the necessary insurance at reasonable cost.

In those states where private carriers were permitted to compete with the state fund, if able to do so, they soon learned that such business was lucratively profitable. Recognizing that workmen's compensation insurance was "here to stay", the private carriers then set out on a campaign to "acquire" the field as their inalienable right. The right of state funds to exist was challenged on the grounds that government was either "competing with" or "usurping the proper field of" private enterprise.

There is no merit to these contentions. Social legislation which places a mandatory responsibility on employers for the benefit of their employees and their dependents, imposes an obligation on government to be certain that the cost to employers is as low as possible commensurate with the maximum benefits decreed for industrially injured employees. There is no more justification for employing private media to earn a profit for providing insurance coverage than there is for employing private media to administer the Social Security and National Service Life Insurance programs for a profit. Social programs are a proper exercise of the governmental function.

B. Insurance At Lowest Possible Cost

The experience of the 18 state compensation insurance funds (Arizona (1925), California (1914), Colorado (1915), Idaho (1918), Maryland (1914), Michigan (1912), Montana (1915), Nevada (1913), New York (1914), North Dakota (1919), Ohio (1912), Oklahoma (1933), Oregon (1914), Pennsylvania (1916), Utah (1917), Washington (1911), West Virginia (1913) and Wyoming (1915)), some competitive and some exclusive, during the years of their existence conclusively demonstrates that state funds can provide compensation insurance and services comparable in quality to that of private carriers at a considerable saving to employers.

The operating expenses of the various state funds are quite impressive:

Arizona	-	10.0%
California	-	14.7%
Colorado	-	9.9%
Idaho	-	14.5%
Maryland	-	11.6%
Nevada	-	11.0%
New York	-	18.6%
North Dakota	-	11.7%
Ohio	-	4.0%
Oklahoma	-	15.4%
Oregon	-	11.5%
Pennsylvania	-	17.0%
Utah	-	4.9%
West Virginia	-	3.8%
Wyoming	-	4.5%
Puerto Rico	-	18.7%

The figures published by the National Council on Compensation Insurance provides for an expense loading factor

of 40.0% of each premium dollar collected by private carriers.

It is true that many private carriers return some of the premium dollars to policyholders in the form of dividends after the close of the policy year. It is equally true that many of the state compensation insurance funds return substantial dividends to policyholders after the close of the premium year. Some of the dividends paid to policyholders in 1960 by State Funds are illustrative:

Arizona	-	\$ 2,000,000
California	-	16,494,428
Colorado	-	599,535
Michigan	-	447,122
Montana	-	1,013,302
New York	-	3,097,546
Utah	-	449,686

See: Argus Chart, 1961, p. 93.

The lower cost of administration means that a greater percentage of the premium dollars charged by State Compensation Insurance Funds can be used to pay indemnity and medical benefits to industrially injured employees at a lower cost to employers.

C. Elements of Higher Cost Factor in Private Carriers' Premium Dollar

Two principal cost factors enter into the private carriers' premium dollar which compel a higher cost to employers

and at the same time makes available less of the premium dollar to pay medical and indemnity benefits to industrially injured employees, to wit: 1) Acquisition costs and 2) profits.

The expense loading factor of 40% published by the National Council on Compensation Insurance provides for a factor of 17.5% for acquisition costs and 2.5% for profit.

Acquisition costs for the most part represent commissions paid to brokers and agents for soliciting the employers' business. With competing carriers offering coverage of varying quality brokers and agents serve a useful purpose. However, where insurance coverage is mandatory the exclusive state fund can spare the employer this added cost. The broker or agent does not sell the "necessity" for securing coverage; there is nothing for him to sell. All of the insurance service the employers need is furnished by the State Fund.

Where there is an exclusive state fund, insurance is provided at cost -- there is no need for "loading" the premium dollar with a profit factor. Moreover, it is morally wrong for workmen's compensation insurance to make a profit for anyone.

ALASKAN CONSIDERATIONSA. Savings to Alaska Employers

Latest available figures for Alaska indicate:

Calendar Year 1959

Earned premium	\$ 2,945,956.
Incurred losses	1,806,263.
Loss ratio	61.3%

12 months Ending June 30, 1960

Earned premium	2,936,592.
Incurred losses	1,970,114.
Loss ratio	67.1%

By National Council standards Alaska employers pay to private carriers approximately \$525,000 for the acquisition factor and \$75,000 for the profit factor. All of these expense dollars could be saved to Alaska employers if compensation insurance were available from an exclusive state fund.

B. Multiple Carrier Hazards

The volume of available compensation insurance business in Alaska is quite small compared to that of a majority of states. It is quite apparent that it is too little to profitably support competing private carriers. Any distribution of

the available business among competing carriers results in higher costs and reduction in services to employers. Correspondingly the level of benefits provided industrially injured employees suffers. Safety programs will get scant, if any attention. Because it is not profitable to maintain local offices, carrier claims adjustment will be carried on by "remote control" from some other state. Unnecessary delays in getting compensation payments into the hands of industrially injured employees will result. Hazardous industries such as logging may be denied coverage if they prove unprofitable to private carriers.

If high workmen's compensation rates are "becoming a serious deterrent to the economic expansion of the state" as was recently asserted by the Alaska Chamber of Commerce, an effective solution can be found in administering the law through insurance with an exclusive state fund.

CONCLUSION

The workmen's compensation and insurance law is a product of the industrial revolution. It was the first piece of major social legislation adopted in this country at the turn of the century.

The workmen's compensation system was established to cure a social illness that developed in the master and servant relationship under the common law.

State Compensation Insurance Funds were organized to provide insurance for employers under these mandatory laws because private insurance carriers were unwilling to enter into this new field. Only when it became apparent that this new field could be "profitable business" did private carriers enter the market.

Workmen's compensation insurance being compulsory -- designed to cure and relieve human suffering and economic disaster resulting from industrial injuries and death -- there is every reason why government should supply this service without profit to anyone.

The cost of workmen's compensation is properly placed upon industry, both on principle and because the distribution of this cost by insurance premium based upon payroll and modified by merit rating and accident experience, is the strongest single factor in developing accident prevention work. Individual employers ultimately include this expense in the prices charged for their goods and services. Thus, in the final analysis, the consumer pays the ultimate cost of industrial injuries.

State Compensation Insurance Funds are trust funds for the monies paid by employers to provide their industrially injured employees and their dependents with the prompt payment of the compensation benefits to which they are entitled under the law. Their objectives are: the restoration to health and the return of the industrially injured employees to their families and to industry at the earliest possible time; to relieve

human hardship and protect human lives by safety education designed to guard against the hazards of industrial injuries; and to afford workmen's compensation insurance to employers at the lowest possible cost consistent with the maintenance of a solvent fund.

The enviable records of the 18 state compensation funds, that of Puerto Rico and those of the ¹⁰9 Canadian provinces attest to their success in attaining these objectives. Whenever state legislatures give consideration to the advisability of creating a state fund, strong, vigorous opposition develops. This opposition is spearheaded by spokesmen for the private carriers. The opposition voiced in terms of altruism and philanthropy is but a mask, understandably, for the protection of self-interest. The very fact that vigorous opposition is interposed bespeaks the serious threat private carriers recognize to their "empire" from state funds. It is a tacit recognition that state funds do an excellent "job." The private carriers can't stand the competition -- can't "beat" the competition of state funds -- so their organized opposition has been successful in prevailing upon legislatures to forego the experiment in states where they enjoy a monopoly.

Private carriers' spokesmen point to their achievements in the field of workmen's compensation with superior pride. For some private carriers this is well deserved. But these spokesmen speak in generalities arrogating to the industry as a whole accomplishments that are neither earned nor

deserved by all carriers. The merits of a private carrier's services bear a direct relationship to the volume of business it does in a given state. By way of illustration, in 1960 there were approximately 130 private carriers and the state fund sharing earned premium of \$261,187,182 in California. The state fund and 2 private carriers had an earned premium of \$71,533,338, \$30,886,366 and \$21,422,221 respectively. 32 private carriers had earned premiums ranging from \$9,363,555 down to \$1,060,019. 29 private carriers had earned premiums ranging from \$961,412 down to \$102,483. 66 private carriers had earned premiums ranging from \$99,830 down to \$2.00.

It is quite obvious that with 40% of premium available for all expenses, including commissions and profits, neither the group of 29 carriers nor the group of 66 carriers had sufficient dollars available to carry on safety programs and other services commensurate with those of the three leading writers.

It does the industrially injured employees whose employer is insured with one of the "lesser lights" no good to know that other industrially injured employees whose employers are insured with one of the volume writers are receiving better service and treatment.

Exclusive state funds can and do provide insurance coverage at lower cost to the employer; they can and do provide prompt payment to injured employees; they can and do

provide the finest of medical and hospital care; they can and do provide expert safety services.

Exclusive state funds develop an exceptional expertise in the workmen's compensation problems of the particular jurisdiction and more accurately reflect the public policy of the state.

Exclusive state funds are not a burden on the taxpayers, but are entirely self-supporting.

Exclusive state funds are an asset to the economy of the state. All of their expenditures, whether they be for claims payments, medical and hospital care, payrolls, materials and supplies or dividends are returned to and enhance the state's economic growth.

Private carriers of the past have fallen into financial difficulties. Either policyholder employers or the states themselves have had to make good the losses and pay the compensation benefits to industrially injured workers on which the insolvent carriers defaulted.

In the entire history of state compensation insurance funds not one has ever experienced such financial distress. Nor is there any need for this to occur. By re-insuring against heavy and catastrophe losses, exclusive state funds can guarantee their solvency at all times.

It is sincerely believed that the State of Alaska
can very effectively solve a serious problem by establishing
an exclusive state compensation insurance fund.

DATED: August 18, 1961.

Respectfully submitted,
THE AMERICAN ASSOCIATION OF STATE
COMPENSATION INSURANCE FUNDS

by Thomas L. Hutchings
Thomas L. Hutchings, President

Harold C. Thompson
Harold C. Thompson, Secretary

