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1981

STATE OF

IOWA



DEPARTMENT OF GENERAL SERVICES

# **Risk Management Division Findings and Recommendations**

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DEPARTMENT OF GENERAL SERVICES □ DES MOINES, IOWA 50319

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January 1981

1981 GENERAL ASSEMBLY OF THE STATE OF IOWA

**RISK MANAGEMENT REPORT OF FINDINGS AND RECOMMENDATIONS**

This report is submitted to the General Assembly in compliance with Sec. 18.169 of the Code of Iowa.

Since I joined the state as Risk Manager, January 14, 1980, my main activity has been to gather and analyze information for this report of findings and recommendations.

The information compiled here was developed mainly through a questionnaire that all state agencies completed. I would like to thank the individual state agencies for the time and effort that they put into completing the rather lengthy questionnaire. Their help is most appreciated. In addition, I would like to thank Dave Beall, Rich Miller, and Rick Nowaczek who helped me in compiling the data from the questionnaire, and Judy Cross who typed this report. Also, some of the general discussion in this report was taken from a risk management audit of the State of New Mexico. The audit was done by the risk management consulting firm of Warren, McVeigh and Griffin of San Francisco, CA.

The first portion of the report is a brief summary of the report and final conclusions. The remainder is divided into: (1) a summary list of major recommendations; (2) an analysis of the risk management administration; and (3) an analysis of the state's risk exposures.

The Appendix includes: (A) a summary of the state's annual insurance premiums; (B) a summary of the state's uninsured losses for the past two years; (C) a summary of a 1977 Risk and Insurance Management Society survey showing the functional responsibilities of full-time risk managers; and (D) Proposed Legislation.

If these recommendations are adopted, I feel that the state's risk management program will safeguard the state's assets at the lowest possible cost. I am looking forward to early implementation of this report.

Sincerely,

Craig A. Hoeman, CPCU, ARM  
Risk Manager

CAH/jc





DEPARTMENT OF GENERAL SERVICES • DES MOINES • IOWA 50319

RISK MANAGEMENT DIVISION

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CHRIS A. HENRY

January 1981

1981 GENERAL ASSEMBLY OF THE STATE OF IOWA

RISK MANAGEMENT REPORT OF FINDINGS AND RECOMMENDATIONS

This report is submitted to the General Assembly in compliance with Sec. 12.163 of the Code of Iowa.

Since I joined the state as Risk Manager, January 14, 1980, my main activity has been to gather and analyze information for this report of findings and recommendations.

The information compiled here was developed mainly through a questionnaire that all state agencies completed. I would like to thank the individual state agencies for the time and effort that they put into completing the rather lengthy questionnaire. Their help is most appreciated. In addition, I would like to thank Dave Beall, Rick Miller, and Rick Nowaczek who helped me in compiling the data from the questionnaire, and Judy Cross who typed this report. Also, some of the general discussion in this report was taken from a risk management audit of the state of New Mexico. The audit was done by the risk management consulting firm of Ward, Murphy and Griffin of San Francisco, CA.

The first portion of the report is a brief summary of the report's findings. The remainder is divided into three major sections: a summary of the risk management administration and an analysis of the state's risk exposure.

The report includes (A) a summary of the state's annual financial performance; (B) a summary of the state's uninsured losses for the past two years; and (C) a summary of the state's risk and insurance management program, including the state's risk management responsibilities of full-time risk management and the Insurance Department.

If these recommendations are adopted, I feel that the state's risk management program will be strengthened and the state's exposure to risk will be reduced. I am looking forward to your investigation of this report.

Chris A. Henry, Risk Manager

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CHAPTER 1

SUMMARY

The advantages to the state of this program are:

1. A pooling of money to fund a much larger deductible than any one agency's budget could tolerate.
2. The coordination of activities and economies of scale in safety and loss control activities.
3. Uniformity of coverage, assuring equal protection of all assets.
4. Uniformity of claims handling so that all claims are responded to and settled in an efficient and professional manner.
5. Greater leverage for negotiating with insurers and other conveyers of services.

With the recommended retention program, it is vital that losses be effectively controlled before and after each loss occurs, with a professionally managed loss control and claims administration program respectively. The advantage to the state of a heavy retention program combined with catastrophe insurance will be better protection of the state's assets and a reduction in the total cost of risk.

RECOMMENDATIONS

Following is a summary of the recommendations contained in this report.

<u>Administration</u>	Discussion on page(s)
1. Transfer the personnel and the responsibility for the liability exposure of Worker's Compensation to the Risk Management Division.	9--12
2. Contract with an outside claims adjusting service firm to assist the current Worker's Compensation personnel with on-site investigation of claims.	9--12
3. Consider, as a long range proposal, a role for the Risk Management Division in the development of employee benefit plans for the state.	11--12
4. Immediately hire a Claims Administrator.	15
5. In future years, hire a Loss Control Administrator and Governmental Subdivision Administrator along with necessary technical and clerical support.	16
6. The Risk Management Division, in conjunction with the Attorney General's Office, should write standard indemnity clauses to be used in all state contracts.	17--24
7. Unique contracts with special indemnity provisions should be individually reviewed by the Risk Management Division.	17--24
8. Loss control responsibilities for all state risks should be organized under the jurisdiction of the Risk Management Division.	25--27
9. Consideration should be given to using outside inspection services to expedite the identification and evaluation of exposures to loss.	25--27
10. The Risk Manager should be involved in design review of all new structures for evaluation of fire protection deficiencies or other hazards.	25--27

	Discussion on page(s)
11. Centralize the payment of all property, liability and Worker's Compensation claims in the Risk Management Division.	31--35
12. Initially, have the Risk Management Division contract with a claims adjusting service firm to investigate and administer liability and Worker's Compensation claim payments.	31--35
13. Initially, claims reporting should be channeled through the claims administrator in the Risk Management Division.	31--35
14. The state should self-insure all areas of risk which do not have special servicing problems. Retention levels should remain consistent for all coverages. The retention level could be as high as two million dollars per occurrence with a twenty million dollar annual aggregate.	37--40
15. The state should create a property and liability self-insurance fund with an initial appropriation of \$7,000,000.	37--40
16. Coordinate with the Purchasing Division to bid insurance in a way that will not create problems in the insurance markets.	46--47
17. Brokerage functions should be consolidated to preferably one broker with facilities to manuscript and market tailor-made coverage for the state.	47--48
18. The Risk Management Division should be the central repository for complete data on the state's cost of risk.	49--50
19. Per occurrence and annual aggregate deductible should be set for all agencies in order to eliminate over-processing of insignificant claims.	50--53
20. The Risk Management Division should use all means possible to encourage agencies to report all losses.	50--53



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|---|--------|
| 21. Losses could be allocated back to the originating agencies using a three-year rolling average method with overhead as an additional amount. Excess premiums could be allocated by formulas reflecting exposure. | 49--52 |
| 22. The Risk Management Division should be the central repository for property valuations for all state property.   | 53--54 |
| 23. The Risk Management Division should undertake or contract out a complete survey of all state structures.  | 53--54 |
| 24. Once collected, the information should be entered in an electronic data processing system and updated with Marshall Swift (or other valuation services) inflation factors.                                      | 53--54 |

Risk Identification and Evaluation

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|--|--------|
| 25. Discontinue buying first dollar auto liability and physical damage insurance and retain this exposure up to the state's tolerable retention level. | 59--61 |
| 26. Include auto liability and physical damage exposures in the overall excess insurance coverage.   | 59--61 |
| 27. Amend the Tort Claims Act to allow the Risk Management Division to contract with claims adjusting services for auto liability claims.              | 59--61 |
| 28. Self-insure the primary liability and physical damage exposure for aircraft up to the state's tolerable retention level.                           | 66--67 |
| 29. Purchase excess limits of liability for aircraft up to as high as \$100 million.   | 66--67 |

	Discussion on page(s)
30. Make certain that all state-owned boiler and machinery objects are regularly inspected by the Bureau of Labor.	68--69
31. Include the Boiler and Machinery Exposure in the overall excess property and liability insurance.	68--69
32. Amend the current law to allow the state and its agencies to self-insure surety bonds rather than being obligated to purchase them from an authorized surety.	72--74
33. Discontinue current money and and securities and burglary and robbery insurance at the universities.	72--74
34. Contract to survey all state buildings.	88--90
35. Cancel all primary property insurance and self-insure property losses up to the state's tolerable loss retention level.	88--90
36. Purchase excess property insurance on all state property.	88--90
37. Continue to self-insure watercraft and snowmobile risks and include these exposures in the overall catastrophe insurance program.	92
38. Cancel all primary liability insurance coverage, self-insure this exposure to a tolerable loss retention level, and purchase catastrophe liability insurance coverage.	104--108
39. Amend the Tort Claims Act to allow the state to contract for liability claims adjusting services.	104--108
40. Structure the self-insurance fund and excess insurance to specifically cover the doctor's medical malpractice exposure at the University of Iowa Hospital and cancel their current insurance coverage.	104--108

CHAPTER 3  
RISK MANAGEMENT ADMINISTRATION

Since Worker's Compensation is a liability of the state and not an employee benefit, a certain adversary relationship is created between the employee and the state at the time of a claim. Since the state settles its own claims, it is obligated to investigate and negotiate a settlement of the claim. There may be legal disputes that arise concerning the validity of the claim, the actual extent of the injuries and how soon the employee should return to work. While most claims could probably be handled smoothly, this adversary relationship should be kept out of the Personnel Department.

Also, when Worker's Compensation is lumped together as an employee benefit and administered in the Personnel Department, there sometimes is a tendency to make over-generous claim payments in an effort to negate the adversary relationship that is involved in a claim.

A professional publication called "Risk Management Reports" recently did a lengthy analysis of Worker's Compensation risk financing. In discussing self-insurance considerations, the report said:

"Most observers tend to begin with financial considerations. We believe that some of the psychological or subjective factors are of equal importance. First, Worker's Compensation obligations are legal liabilities, not employee benefits. This fact cannot be emphasized too strongly. We know of a major educational institution which several years ago shifted its Worker's Compensation administration from its Insurance Department to its Personnel Department, which was responsible for dispensing other fringe benefits. The result has been over a 50% increase in Worker's Compensation costs, largely because those handling claims treated them as benefits, rather than as legal liabilities. Any self-insurance plan in which compensation obligations are to be administered by fringe benefit personnel may be courting financial disaster!"

While "courting financial disaster" is too strong when applied to a state government situation, this factor may increase Worker's Compensation costs for the state.

The proposed Risk Management program for the state involves centralizing the claims administration, record keeping, and funding for all the state's property and liability exposures. This should include the liability exposure of Worker's Compensation.

The proposed department of Personnel should handle Worker's Compensation as far as communicating to employees that they have the coverage, answering employee questions, and assisting employees in completing a claim report. However, the investigation, settlement, and administration of the claims should then be handled by the Risk Management Division.

Thus, the Risk Management Division will act as an insurance company would under an insured plan. The Division will investigate and settle the claim, provide funds to pay the claim, keep records on past claims, and provide loss control assistance.

Appendix C of this report gives excerpts from a 1977 study done for the Risk and Insurance Management Society (RIMS). One interesting aspect of this study showed that out of 597 full-time Risk Managers in the United States, 41% of them are responsible for both property and casualty exposures and employee benefits. The study also showed that 99% of full-time Risk Managers handle Worker's Compensation claims whether or not they had any responsibility for employee benefits.

Because a large number of employee benefits plans are insured, Risk Managers are becoming increasingly involved in plan development and administration. The Risk Management responsibility arises from two aspects of employee benefit plans: (1) Their concern with risks of injury (including illness and

death), and recently, risks of damage to property and losses arising from liability; and (2) The concern with loss reduction, loss financing, and claims administration. The similarity of these features in employee benefits to other risk management subjects and operations varies according to the type of benefit. Employee's health risks, a common subject of employee benefits, in particular, are heavily involved in loss reduction, loss finance, and claims administration similar to property and casualty exposures.

Possibly, in years to come as the state's Risk Management Division matures, it should play some role in the development of employee benefit plans for the state.

#### C. Recommendations

1. Transfer the personnel and responsibility for the liability exposure of Worker's Compensation to the Risk Management Division. Recommendation number 107 of the Governor's Economy Committee showed that the current workload for the Worker's Compensation Section was three times the normal case level per individual so that they cannot provide proper on-site investigations of claims.
2. Contract with an outside claims adjusting service firm to assist the current Worker's Compensation personnel with on-site investigation of claims.
3. Consider, as a long range proposal, a role for the Risk Management Division in the development of employee benefit plans for the state.

## II. ORGANIZATION AND STAFFING

### A. Present Arrangement

The Risk Management legislation placed the Division in the Department of General Services. The Director of the Department of General Services has the authority to hire a Risk Manager and such other permanent full-time personnel as shall be necessary to administer the chapter. The Risk Management Division has been operating with a Risk Manager and a secretary since January 14, 1980.

The legislation was created to try to centralize the risk management functions. Prior to this, state agencies and the universities each handled risk individually as they saw fit.

The duties of the Risk Management Division not only cover the state, but the division is required, later on, to provide services to governmental subdivision. With all the state's exposures and nearly 3,000 subdivisions in the state, this will require additional staff in order to be effective.

### B. Discussion

The most cost efficient organization of the risk management function requires centralization. By splintering its' efforts and purchases, the state loses economies of scale and the negotiating strength of its total buying power. It suffers inconsistencies in insurance protection for essentially similar risks and eliminates the opportunities to save substantial sums by pooling the funds for self-insurance.

The risk management process can be divided into three major components:

#### 1. Risk Identification and Evaluation

The first, and most important step in the risk management process, is the identification of all risks of loss to which the state is subject. Some of the exposures to loss may be quite evident, such as the risk



of loss by fire, flood, or human injury. Other risks can be less evident, but have potentially devastating consequences, such as workers compensation cumulative trauma or nuclear and chemical pollution. Once risks are identified, the potential severity and frequency must be calculated and the risks ranked in order of potential impact. Thus, possibly catastrophic exposure, which may occur rarely, is as important as the frequent, but smaller sources of loss.

## 2. Risk Control

Once risks are identified and quantified, strategies must be formulated to prevent losses where possible or to reduce their financial impact. Risk control can be divided into two major categories: post loss control, which involves proper claims management, and pre-loss control, which is more readily known as loss prevention. Installation of fire detection systems, formulation of disaster plans and employee safety programs are methods used in the loss control process. In order to be efficient, the cost of risk control must be weighed against the impact of a loss which the method is designed to prevent and compared to the savings in insurance premiums which might be realized.

## 3. Risk Funding.

The final step of the risk management process is determination of the best method of funding loss. For each risk, the funding techniques of insurance, self-insurance and planned non-insurance must be compared and evaluated to determine the least expensive method of cushioning the state's budget from the impact of loss. The three steps of the risk management process described above cannot be splintered if the functions are to be performed effectively. Risk management is a balancing of cost and benefits. Should money be spent on a sprinkler system

in a library or in additional fire insurance? Will the costs of an accident prevention campaign outweigh the potential benefits? Is the cost of an insurance policy reasonable in relation to the magnitude of the risk which it insures? Pooling of all the state's risks into one central management allows:

1. Pooling to fund much larger deductibles than any one agency's budget could tolerate;
2. Coordination of activities and economy of scale in safety and loss control activities;
3. Uniformity of coverage, assuring equal protection of all assets;
4. Uniformity of claims handling so that all claims are responded to and settled in an efficient and professional manner;
5. Greater leverage for negotiating with insurers and other conveyers of services;
6. The management of risks by professionals.

In order to perform the necessary risk management functions, additional staff will be needed in the future. For the current biennial budget, the Division is requesting to add one position which will be a Claims Administrator.

The Claims Administrator should be someone who has an education and work experience in loss adjustment and claims management. The Claims Administrator's objective is to set up and coordinate the claims management program for the state. This includes: 1. Writing procedures for the reporting and follow-up of all claims; 2. Personally adjust large or complicated property losses that require special expertise; 3. Write specifications and contract for services of outside adjustors; 4. Collect and maintain all loss data for the state; 5. Report losses to the excess insurance carrier and follow-up

on claim payments from them; 6. Manage and coordinate subrogation and salvage operations; 7. Provide technical consulting to governmental subdivisions in the area of Claims Administration.

In the future, the division should have a Loss Control and Safety Administrator to set up and coordinate loss control programs for the state. Also, the division should have a Governmental Subdivision Administrator to work full-time on risk management services for governmental subdivisions. In addition, these proposed administrators will require technical and clerical support.

#### C. Recommendations

4. Immediately hire a Claims Administrator.
5. In future years, hire a Loss Control Administrator and a Governmental Subdivision Administrator along with necessary clerical and technical support.

### III. CONTRACT REVIEW

#### A. Present Arrangement

Currently, there appears to be no centralized reviewing of contracts which the State of Iowa enters into. Each agency appears to do their contracting on an individual basis and the Attorney General's Office is involved in reviewing the wording of some contracts.

#### B. Discussion

One of the functions of loss control in the Risk Management process is the review of contracts to determine if the state is assuming liability that they should not be assuming. There exist many risks of large loss which must be transferred to others, if the state is to maintain stable financial operations. Such transfers are normally done by insurance, but since this involves a cost, other methods are sometimes employed. Non-insurance transfers are done by contract, as in hold-harmless agreements in leases and other contracts.

In addition to hold-harmless agreements, other aspects of contracts affect risks:

1. Requirements to carry insurance;
2. Requirements to return property in good condition or otherwise be responsible for its preservation;
3. Abatements of rent payments in rented buildings while a building is unuseable.

In order to streamline the process of contract review, the Risk Management Division should establish a set of standards, including standard clauses to be used in all state contracts. By using such standards, this should assure uniformity in state negotiated contracts. Unique situations could be handled on an exception basis. Some key topics that should be included in the standards are:

## 1. Hold-Harmless Agreements

Through the use of hold-harmless agreements, responsibility for loss may be shifted, and in some cases, new responsibilities created. Almost every state contract will impose liability on the state or transfer liability. Quite often contract language is not "negotiated". Purchase orders, mortgages, and to a lesser degree lease agreements, contain "boilerplate" language about which price is the only subject of the negotiation. The shifting of the responsibility to another party, through a hold-harmless agreement may increase the cost of goods and services disproportionately. If the state's cost of retaining risk is substantially less than that of the other party by which it is contracted, risk should not be transferred.

Hold-harmless agreements should be administered with caution. Cost control is not the only reason. The legal validity of some indemnity agreements is questionable, particularly with regard to the transfer of one's sole negligence, willful misconduct, or punitive damages. Basically, hold-harmless agreements should place responsibility on that party to the contract who maintains or exercises the greatest degree of control over operations. In order to avoid the financial consequences of a liability claim, it is understandable that both parties to any contract may wish to shift the responsibility of a potential claim to the other party. Sometimes a resolution at this point is determined by the relative bargaining position of each of the parties. However, as previously indicated, fairness and reasonableness indicates that responsibility should be placed on the party who maintains or exercises the greatest degree of control over the project. Under a hold-harmless agreement, the party assuming responsibility is called an indemnitor, whereas the party being held harmless

or who is shifting liability to the indemnitor, is referred to as the indemnitee.

The variations followed in hold-harmless agreements are almost endless; for rating purposes the liability insurance manual classifies hold-harmless agreements into three broad categories:

- a. Limited Form (Indemnitee held harmless from indemnitor's own negligence);
- b. Intermediate form (Indemnitee held harmless for joint negligence);
- c. Broad form (Indemnitee held harmless for all suits, including indemnitees' own negligence).

Broad form indemnitee agreements should neither be accepted nor requested of other parties. They not only are contrary to ordinary justice, but in some jurisdictions and under some conditions are illegal. It is recommended that if the other party to a contract is controlling operations, the other party being named as the indemnitor, in an intermediate form of hold harmless agreement. It is in the state's interest to shift liability to that party controlling operations; a limited form of hold-harmless agreement does not accomplish this goal.

If the State must accept liability, it should attempt to insert wording that will exclude the state from liability from the other party's sole negligence or willful misconduct, i.e. an intermediate form of hold-harmless agreement.

## 2. Insurance Clauses

Hold-harmless clauses are but one important clause to be considered when evaluating or negotiating contracts with outside parties. Insurance

liability policy states that it, the liability policy, is "excess of other contributing insurance" the basic rationale for shifting liability to the other party and requiring that the assumption of liability to be funded with insurance is defeated.

The state should be satisfied that the insurance requirements discussed above are being complied with by the contracting party. Usually, this is accomplished by requiring a certificate of insurance of the contractor in which these requirements are specified. Typically, these certificates of insurance are prepared by the underwriter, (or the agent) of the contracting party and vary substantially in format and language. In order to systemize the process of requiring and reviewing liability insurance requirements of outside parties, it is recommended that the state prepare its own standard "Certificate of Insurance" to be filled out by the other party.

If the state is party to a contract in which the insurance clause makes requirements on it, it should be carefully evaluated in order to make sure that it conforms with the state's Risk Management Policy and is not unduly restrictive. For example, the state may be required to include coverage that otherwise it may not wish to; in addition, the state may be required to obtain "first--dollar" coverage, whereas it might otherwise wish to obtain such coverage with a large deductible. In some situations, the state may wish to be self-insured, it may be required to provide evidence of insurance. The common example is the wording in the vehicle long-term lease agreements. Leases required to provide proof of automobile physical damage insurance. Such clauses should be negotiated out of the contract.

### 3. Damage Clauses

In addition to hold-harmless and insurance clauses, another type of clause that should be carefully reviewed is the clause commonly entitled "Damages". These clauses are most commonly found in lease agreements and, in most situations, require the leasee to return the premises in the same condition at the termination of the lease that it was found when the lease was executed. Typically, such hazards as "wear and tear" are excluded. Even with this exclusion, the leasee is, in effect, made an all risk insurer of the property. "Acts of God", and other hazardous conditions beyond the control of the leasee, should be exempted from "damage clauses". However, more desirable wording, if the state is the leasee, would be to charge the leasee only with "willful acts". Whether or not a condition is "beyond control" is more difficult to determine. It is unwise to attempt to specifically identify such exempted perils because it is impossible to think of every contingency.

### 4. Rent Abatement Clauses

Rent abatement clauses are typically found in lease agreements and are relevant to the indirect or rental income exposure of the state. If, for example, the state is a lessee under a specific rental agreement, and an inadequate or nonexistent rent abatement clause is included (or not included), the state could conceivably be liable for rental payments to the lessor--even though the building had been destroyed by some physical damage. It is prudent to word the rent abatement clause so that rent is abated in proportion to the amount of damaged property. In many cases, a thirty, sixty, or ninety day "waiting period" will be included in this clause before any abatement is effective. It is in the state's interest as leasee, to eliminate or reduce this waiting period to the greatest extent possible.

### C. Recommendations

6. The Risk Management Division, in conjunction with the Attorney General's Office should write standard indemnity clauses to be used in all state contracts.
7. Unique contracts with special indemnity provisions should be individually reviewed by the Risk Management Division.

## IV. LOSS CONTROL ADMINISTRATION

### A. Present Arrangement

Currently, the loss control function for the state is not organized under a central agency. The Risk Management Act provides that one of the duties of the Division is "to develop risk reduction and elimination programs".

Currently, the Bureau of Labor provides technical expertise and inspections for the general public and the state in certain areas. They enforce compliance with the state laws on occupational safety and health, and offer technical assistance to employers complying with these laws. Also, the Elevator Safety and Amusement Park Rides Division inspects and certifies all equipment and devices under its jurisdiction. They work in cooperation with various insurance companies to determine the operational safety of pressure vessels throughout the State of Iowa. In addition, the State Fire Marshall in the Department of Public Safety promotes fire safety, enforces appropriate regulations and conducts investigations into the causes of fires including suspected cases of arson. The Bureau of Labor and the Department of Public Safety work primarily for the general public, but they also provide some loss control services to the state.

### B. Discussion

Risk control requires the balancing of risk against cost of reducing risk. Thus, control of small, but frequent losses, such as Worker's Compensation injuries, has equal importance as control of the infrequent but catastrophic loss by fire. The Risk Management Division should use their budget and resources on the most expensive losses first, be they rare but catastrophic or small but frequent. The splintering of state loss control function, among several state agencies, does not allow for the efficient allocation of resources.



The Risk Management Division should have charge of all safety functions that pertain to the property and liability (including Worker's Compensation) exposures of the state. In order to speed up the process of risk analysis, inspections and field analysis can be contracted out to surveyors who specialize in such work for insurers. The surveyor would inspect the building, discuss construction and fire protection and other significant features and produce a diagram of the structure.

Once exposure data has been accumulated, the Risk Management Division can formulate the details of a loss control program. Implementation will probably require the services of others. The State Fire Marshall can perform regular building inspections for both property and certain life safety hazards. Inspections by the Bureau of Labor can also yield recommendations for improvement.

However, where loss control efforts may require the redesigning of job procedures or hiring and training practices, more immediate results might be obtained by using outside services specializing in management techniques to control Worker's Compensation losses. Analysis of Steps required to implement a loss control program are:

1. Analysis of all exposures to loss and quantification of each possible loss. Such a survey is a large undertaking and involves more than the assembling of lists of property values. Priorities must be analyzed for bottlenecks which could affect other areas, such as the impact on a university of the destruction of its' library. Analysis of Worker's Compensation or public liability risks can be even more complex as they may require analysis of employee training and job procedures. Risk identification for the State of Iowa will require continuous efforts of the Risk Management Division in inspections and cataloging of risks. However, the Risk Manager must also make direct

contacts with agency heads to survey risks. Such in-depth interviews will reveal liability, fidelity and other exposures that physical inspections cannot uncover.

2. Formulation of a program to minimize risks.

Once risks of loss had been analyzed, quantified and ranked in order of their dollar value, the Risk Manager must evaluate the potential for reducing each category of risk. They must judge the relative value of various levels of expenditure compared to possible reduction of risk. For example, the relative minor expenditure for installation of an alarm would reduce detection time and, subsequently minimize the consequences of a fire. Installation of a wet-pipe sprinkler system, in conjunction with smoke detectors, would be considerably more expensive, but could offer a substantial reduction in insurance premiums.

3. Implementation of a loss control program.

The Risk Manager can design his own loss control program, but he must rely heavily upon others to implement it. A boiler maintenance manual is valuable only if the maintenance personnel use it. A good loss control program requires a sales effort as well as technical inspections to spot and correct problems. Implementation of a good program requires the free and timely flow of information from the field to the Risk Manager and back to the field. For example, the Risk Manager should be involved in design review of all new structures to forestall fire protection deficiencies or safety problems.

#### C. Recommendations.

8. Loss control responsibility for all state risks should be organized under the jurisdiction of the Risk Management Division.

9. Consideration should be given to using outside inspection services to expedite the identification and evaluation of exposures to loss.
10. The Risk Manager should be involved in design review of all new structures for evaluation of fire protection deficiencies or other hazards.

## V. CLAIMS ADMINISTRATION

### A. Present Arrangement

Currently, the handling of property and liability claims for the state are separated into three basic areas. Property losses are either paid out of the operating budget of each agency or referred to the Executive Council for payment under Section 29C.20 of the Code of Iowa. The Auditor's Office is designated to send someone to determine the scope of damage and make recommendations to the Executive Council as to the amount of payment to be made. Losses in excess of \$500,000 are referred to the legislature for an appropriation.

Tort Liability Claims are paid according to Chapter 25A of the Code, State Tort Claims Act. Authority is conferred on the State Appeal Board, subject to the advice and approval of the Attorney General's Office to consider, ascertain, adjust, compromise, settle, determine, and allow any claim defined in the Tort Claims Act. If any claim is compromised, settled, or allowed, in the amount of more than \$5,000, the unanimous approval of all members of the State Appeal Board, the Attorney General, and the District Court of the State of Iowa, for Polk County, shall be required. Claims made under this Chapter shall be filed with the State Comptroller, who shall acknowledge receipt on behalf of the State Appeal Board. Any liability exposures which are insured, shall be settled according to the provisions of the insurance contract.

Worker's Compensation Claims are currently handled by the Financial Management Division of the State Comptrollers Office. According to the Governor's Economy Committee Report, a total of 4,058 claims were filed in the fiscal year 1979 resulting in approximately \$1.5 million in payments. The report also recommended that the present staff of three be increased to five in order to adequately handle this large case load.

## B. Discussion

The current decentralized arrangement for claim payments is not an efficient or cost-effective approach to this Risk Management function. Since the Risk Management Division is responsible for maintaining loss and exposure data for the entire state, it is imperative that the Risk Management Division maintain control over the claims management and administration function.

The goal of the claims administration function can be summarized as the minimization of the cost of losses which have already occurred. Thus, the Claims Administrator attempts to handle all claims fairly and control the outflow of dollars per settlement of loss. The administrator must balance the outflow of investigative and loss evaluation expenses against the possible savings in indemnity payments which may result. As it is possible to pay too much for a claim because it has not been thoroughly investigated, it is also possible to spend more on adjusting a small claim than the size of the claim would merit. A small automobile claim involving a damaged fender would not merit the same adjusting expense as an automobile claim involving bodily injury. However, if the settlement procedure for a small claim may set a precedent for future and possibly larger claims, then a larger investment in adjusting expense might be prudent.

If the state assumes the large retention level that has been recommended, it will become responsible for claims handling which is now done by some insurers. As the state undertakes responsibility for more and more areas previously insured, a larger volume of claims allows a choice of handling claims by state employees or using outside services. Eventually it may be more cost effective to self administer these claims, however, it is usually a good approach initially to use the services of an outside claims adjusting

firm who has the experience and expertise in all areas of claims management and also has the facilities for computer record keeping of all losses.

### 1. Property Loss Administration

Property insurance claims should require less paper work than under a fully insured program as the Risk Management Division can set the standards for proof of loss. The detailed taking of inventory, required by the insurer before payment of the property claim is made, can be waived. The Division might choose to accept an agency director's best estimate of the value of a loss rather than incur the expense of an outside appraiser. Payment of property losses will involve only redistribution of funds between agencies, and time can be saved by simplifying the adjusting process. Whenever possible, the Risk Management Division should deal directly with the cost center manager to decide the value of a loss. Outside adjustors or appraisers should only be used in the event of a serious difference of opinion about a loss or on large losses. An example of this relatively rare kind of dispute would be the situation of repeating water damage to contents of a warehouse with a leaky roof. The first water damage claim could be considered a fortuitous event that should be paid as an insured loss subject to the agency deductible. A second claim should probably not be paid as it would have been caused by failure to maintain the obviously defective roof. The insurance fund should not be a substitute for maintenance and proper budgeting of repairs. In this situation, the outside adjustor functions as an informal arbitrator to settle the dispute quickly.

### 2. Liability and Worker's Compensation Claims Administration

Although property loss settlement can be streamlined in a self-insurance program, liability and Worker's Compensation claims cannot

be simplified. All the claims functions performed by the insurer, i.e. investigation, negotiations, litigation and settlement must be continued. While it might be tempting to immediately simplify and decentralize the handling of small liability claims, it is important that all third party claims be handled in a professional manner. If a small "fender-bender" automobile property claim is settled without signature of proper release forms, the plaintiff can reopen the case with a much larger bodily injury claim bolstered by tacit admission of state fault evidenced by payment of the fender. While claims handling for small incidents may be decentralized after proper instruction, it is probably wiser initially to pay for the professional approach of an adjustor and consider decentralization after the adjusting firm has become familiar with the state's procedures.

Claims function can be handled either by state employees or by an outside firm under contract. There are benefits to each method. The benefit of using state employees lies mainly in the ability to train the adjustor to follow the state's claim handling philosophy. Many Risk Managers also feel they have better control over the quality of work performed. However, there are a number of advantages to using outside services. The geographic spread of the state would allow for a quicker response by local adjustors than by state adjustors dispatched from Des Moines. Use of outside services also assures the Risk Manager of an instant, experienced, competent staff. Unsatisfactory performance by adjustors or claims supervisors becomes the problem of the contract service firm, and not a personnel problem for the Risk Manager. The Risk Manager also has the benefit of paying only for the amount of hours needed to do the job; he need not be concerned with justifying the salaries of full-time employees. A further consideration is the attitude of the

excess underwriter. Although many underwriters are now willing to provide insurance over a self-administered program, most are more comfortable if the claims are administered by a professional claims service firm.

The key to any smoothly run claims program is the speedy flow of information. Notice of an incident or claim must flow quickly to the individual who will initiate action. Information can flow from a field department into the Risk Management Division and out to an adjustor or the field department can be given the authority to contact a local adjustor directly with a follow-up notification to the Risk Management Division. The adjustor would submit his report to an already alerted claims administrator. Although the latter method produces much quicker response time, it has the disadvantage of eliminating the claims administrator's discretion regarding the use of adjustors. On the other hand, a clearly written procedure distributed to field managers should keep a decentralized notification procedure functioning smoothly. The written procedure can lay out guidelines for direct use of an adjustor as well as which circumstances should dictate a direct call to the Risk Management Division before any other action is taken.

The design of a good claims administration program should include forms and procedures for the flow and collection of information. Proper and complete communications are necessary for claims settlement. Even more important is the collection of loss information for administrative control and loss control. Incomplete or inaccurate data makes the task of claims funding more difficult as the Risk Manager is less able to estimate his cash flow requirements. Complete and timely claims information is also indispensable to negotiating favorable excess

insurance premiums. Underwriters are very leary of providing insurance if incomplete claims data hampers their ability to evaluate loss potentials. If the underwriter has doubts about the information presented, the premium will be inflated accordingly to compensate for the additional uncertainty. The state's loss prevention programs also requires complete and timely claims information in order to pinpoint and correct repetitious loss situations and to evaluate benefits of loss control expenditures. The Risk Management Division should design and distribute standard reporting forms for all claims or losses with step by step instructions on completion and timely submission of the information.

The final step in the design of a good Claims Administration Program is the incorporation of an audit function. Periodic audits uncover inefficiencies and errors before they become major problems. Although the activities of contractors should be monitored routinely, the periodic detailed audit is the most objective way to determine the effectiveness of the function and its efficiency. Contracts with outside services should include a guarantee by the contractor to cooperate with the auditors. This audit could be handled by the State Auditor's Department or the Insurance Department.

Since the Code in Sec. 18.169 already provides for Executive Council supervision of the Risk Management Division, the Council can be the final authority on payment of larger claims. For example, all tort liability claims in excess of \$25,000 per occurrence will require prior approval of the Attorney General and Executive Council before payment. Also, all property claims in excess of \$50,000 per occurrence will require prior approval of the Executive Council before payment.

This supervision by the Executive Council on larger claims and the day-to-day supervision by the Claims Administrator in the Risk Management Division combined with the annual audit by the State Auditor or Insurance Department should provide all the necessary safeguards in claims administration.

### C. Recommendations

11. Centralize the payment of all property, liability, and Worker's Compensation claims in the Risk Management Division. This would mean that the Risk Management Division would take over claim payment responsibilities from the Executive Council, the Appeal Board and the Comptroller.
12. Initially have the Risk Management Division contract with a claim adjustor service firm to investigate and administer all liability and Workers' Compensation claim payments.
13. Initially, claims reporting should be channeled through the claims administrator and the Risk Management Division. However, after the first year of implementation, department managers should be given the authority to contact designated local claims firms directly with a follow-up notification to the Risk Management Division.



## VI. RISK RETENTION AND FUNDING

### A. Present Arrangement

The state has not yet formulated a conscious policy towards retention of risks. Certain exposures such as property losses, general liability losses, and Worker's Compensation losses are almost completely self-insured. Other risks such as automobile and aircraft liability, and fidelity bonds are completely insured up to a specific dollar limit. Thus, levels of risk retention vary from as low as nothing for automobile and aircraft liability to unlimited (limited only by the amount of the loss) retention of property and general liability losses.

All areas of risk which are currently self-insured, are funded basically in three areas. The Executive Council has an emergency contingency fund which is a standing unlimited account. This fund is used to pay for losses of state owned property during the year. The State Appeal Board has an account to pay for claims under the State's Tort Claims Act. These are third party liability claims against the state. The State Comptroller's Office has two separate accounts to pay for Worker's Compensation losses. One account is to pay for employees of the Department of Transportation and there is a separate account to pay for all other state employees.

### B. Discussion

As a general rule, there are a few advantages to varying risk retention levels. In certain situations; such as inspection services at a favorable rate, or complying with insurance requirements imposed by an outside source (leases, bond indentures, etc.), or the easing of certain loss adjustment problems, the use of first dollar insurance coverage may be the best option. However, in most situations, the insured should retain part of the loss.

In determining the amount of risk to retain, the first rule is that predictable losses should always be retained. Use of insurance to pay for such foreseeable losses is a very inefficient funding mechanism, because the insurer can return only 55 to 65% of the premium dollar and still break even.

Beyond examining the level of predictable losses, the best method of measuring the state's loss retention capacity would be examination of its' annual receipts. The common rule of thumb used by many firms and public entities is 1/10th of one percent of the annual budget as a conservative per loss retention level. To arrive at an annual aggregate ability to absorb loss, the per loss figure should be multiplied by ten, arriving at one percent of receipts as a reasonable annual aggregate. The multiplication of the per loss figure times ten is a conservative assumption that the entity is unlikely to suffer more than ten such maximum losses in any one annual period. Although these percentages of 1/10th of one percent and one percent are simple average numbers used by many entities, they are based upon the theory that any entity's budget is flexible enough to allow a certain percent of variation. A one percent variation in the budget is generally a tolerable level for most organizations. This risk retention level can be understood if the income of an individual making \$30,000 per year is used as an example. One percent of his income is \$300 and 1/10th of one percent is \$30. Most individuals with a \$30,000 income could accept an unplanned loss of \$300 per year, and frequently they do.

Currently, the State of Iowa's annual general fund budget totals \$1,733,600,000. One-tenth of one percent of that amount would yield a risk retention level per loss in the range of one and one-half to two million dollars per occurrence, with an annual aggregate of 15 million to 20 million dollars. Retention within that range should be chosen after an analysis of the state's debt service and

other fixed obligations and after determination of the availability of any funds other than general revenues which might be available to fund losses.

Once the per loss risk retention has been calculated, it may be prudent to divide that per loss total among various losses which could arise out of one occurrence. For example, it is possible that employees and members of the public could be injured in a fire which also results in a large property loss. Once the loss retention level has been determined, the state then needs to purchase excess insurance coverage so that any large unexpected losses can be paid by the insurance company.

It is important to realize that calculation of a maximum tolerable risk retention level is a different concept than the actual determination of a self-insured retention level (deductibles) by line of risk exposure. By establishing a maximum risk retention level, the Risk Manager can then arrange an appropriate balance between insurance and self-insurance without seeking higher approval. Since the state already self-insures property, general liability and Worker's Compensation, it should be relatively simple to implement this risk retention program. In these areas it would simply mean that the state should purchase an excess property, liability and Worker's Compensation policy above the stated retention levels. In the areas where the state now purchases insurance, such as auto liability, and aircraft liability and physical damage, these insurance coverages should be structured so that the first two million dollars per occurrence is retained. This would actually mean that the current insurance policies should be dropped and these exposures included in the excess property and liability policies which would be purchased.

The current decentralized funding of self-insured losses needs to be changed in order to have a cost-effective Risk Management Program. One central fund should be established for the financing of self-insured losses. The question usually raised in any discussion of a funded reserve is how much

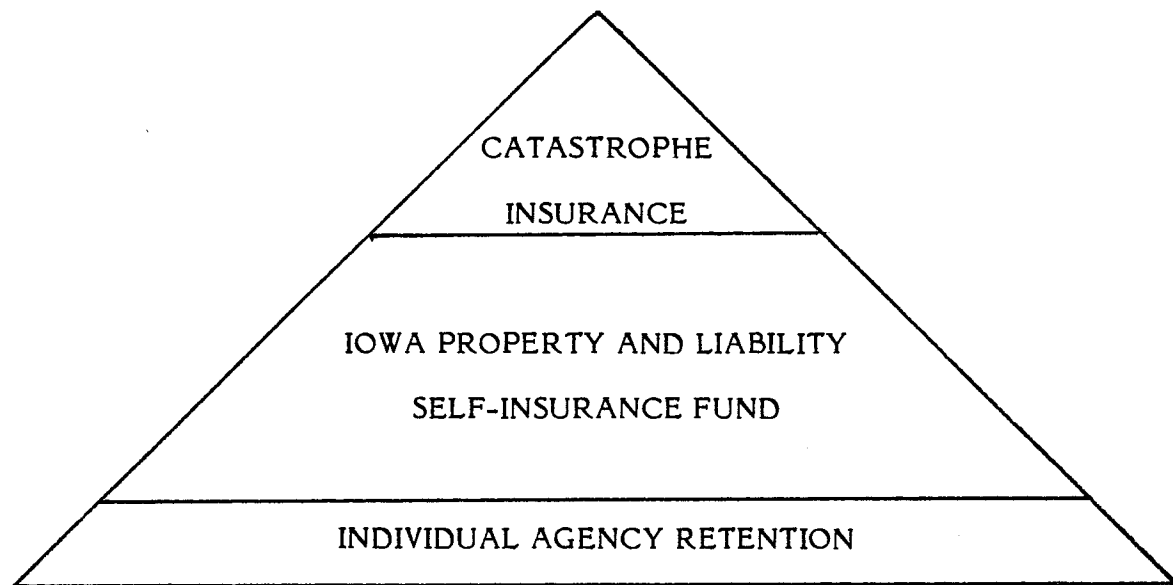
should go into the fund? There is no pat answer. However, eventually over a period of several years the fund should be built up to a point where it is equal to the annual aggregate retention level that the state has decided upon. This would mean that with the current recommendations, the fund would eventually reach a maximum level of 20 million dollars. However, this fund can be built up to the 20 million dollars over a period of several years. A substantial portion of this reserve should be invested to earn the maximum return consistent with safety, and the earnings should be returned to the fund. This compounding effect can increase the reserve and, thus lower the amount of necessary appropriations.

The use of a reserve fund is not without problems. Such a potential problem would occur if an unexpected loss or losses occur early in the retention program when the reserve is not large enough to take care of the retained portion. This type of occurrence should not be used as an excuse to destroy the retention concept. Although we are able to predict losses, we cannot predict exactly when they will occur. Over time, the fund will take care of losses. Also, proper excess insurance coverage can reduce the possibility of bankrupting the fund. Another problem would result from the exact opposite of the above. Due to the low volume of losses, the reserve grows to a substantial amount. Some people do not like to see reserves sitting idly by, and they try to find "emergency" uses for it. Once these funds are "borrowed" they are seldom returned. Some type of protective feature should be built into the fund--as is done with retirement funds.

The Risk Management Division shall annually provide the General Assembly with a financial statement on the self-insurance fund transactions. Also, all fund transactions will be audited at least annually by the State Auditor.

## IOWA PROPERTY AND LIABILITY SELF-INSURANCE FUND

<u>Income from:</u>	Appropriations (\$7,000,000 Annually)
	Interest on investments
	Assessments to some agencies
	Deductible pay back
	Subrogation and salvage
<u>Expenditures:</u>	
\$4,500,000	Estimate of annual expected uninsured property, liability, and Worker's Compensation, paid losses and reserves--based on past loss history.
400,000	Loss adjustment expense for liability and Worker's Compensation losses plus some large property losses.
100,000	Allocated to loss control consulting and expense.
2,000,000	Catastrophe insurance premium and reserve for unexpected losses.
<hr/>	
\$7,000,000	TOTAL



1. Each state agency that is involved in or responsible for a particular loss will pay a deductible for each loss occurrence. (For Example: \$500 per occurrence)
2. An appropriation will be made to a self-insurance fund. The fund will issue a certificate of coverage outlining the losses that it will cover. The fund will pay losses from the deductible up to the limit of the excess (catastrophe) insurance coverage.
3. The fund will pay losses, marketing fee for excess insurance, excess insurance premium, loss adjustment expense including any outside attorney fees, and loss control expense.

TYPICAL BREAKDOWN OF PRIMARY INSURANCE PREMIUM DOLLAR

65¢ -- Actual Losses and Reserves	
10¢ -- Agent/Broker Commissions	
10¢ -- Loss Adjustment Expense	
10¢ -- Administration and Overhead Expense	
3¢ -- Underwriting Profit	
<u>2¢ -- State Premium Tax</u>	
\$ 1.00	TOTAL

The state currently pays \$2,053,355 a year for primary insurance with no excess or catastrophe coverage. Therefore, the state is currently paying for services from insurance companies as follows:

\$205,336 -- Agent/Broker Commissions	
205,336 -- Loss Adjustment Expense	
205,336 -- Administration and Overhead Expense (Including Loss Control)	
61,601 -- Underwriting Profit	
41,067 -- Premium Tax (This, of course, is returned to the state)	
<u>TOTAL</u>	<u>\$718,676</u>

In addition, the state averaged approximately \$4,121,000 a year in uninsured losses the last two years (see appendix B). The adjustment and administration of these losses involved partial salaries of auditors and investigators, the Appeal Board, the Executive Council and attorneys. Assuming this amount averaged 6% of losses, the state paid \$247,260.

COMPARISON OF PRIMARY INSURANCE VS. SELF-INSURANCE

	<u>Current Handling</u>	<u>Proposed Program</u>
1. Pure premium (65% of actual premium) 2,053,355 x .65	\$1,334,681	0
2. Expected uninsured losses	4,121,000	5,455,681 (add 1 & 2)
3. Agent/Broker Commission (10%)	205,336	0
4. Insurance company loss adjustment expense (10%) 2,053,355 x .10	205,336	0
Uninsured loss adjustment expense (6% of uninsured losses) 4,121,000 x .06	247,260	400,000
5. Administration, overhead and loss control service. (10%) 2,053,355 x .10	205,336 Ins. Co.	100,000 Loss Control
	50,000 Risk Mngmt. Budget	125,000 Risk Mngmt.Budget
6. Underwriting Profit (3%) 2,053,355 x .03	61,601	0
7. Premium Tax (2%) Offset since it is returned to the state.	-----	-----
TOTAL	<u>6,430,550</u>	<u>6,080,681</u>

Also, there are some cash flow savings by self-insuring. Instead of prepaying \$2,053,355 for insurance premiums, the state can keep this money and use it to pay losses as they occur. Assuming that on the average, over the year, 50% of this can be invested at a conservative 10% the state will save an additional \$102,668.

$$\$2,053,355 \times .50 \times .10 = \$102,668$$

\$6,430,550 - Current

-6,080,681 - Proposed

349,869 - Saving

+ 102,668 - Cash Flow

\$ 452,537 - Total Saving

The proposed total self-insurance program shows an annual savings of \$452,537. This savings largely depends upon having no large uninsured losses. Since the state has such large exposures in the areas of aircraft and general liability as well as over \$3 billion in property exposures, the state definitely needs to purchase catastrophe insurance.

Currently, the state does not purchase any type of excess catastrophe limits. The state should purchase limits as high as \$150 million per occurrence.

With this program of self-insurance and catastrophe insurance in place, the state will be saving money on the smaller losses and will be reimbursed when a large loss strikes.



### C. Recommendations

14. The state should self-insure all areas of risk which do not have special servicing problems. Retention levels should remain consistent for all coverages. The retention level could be as high as two million dollars per occurrence with a twenty million dollar annual aggregate.
15. The state should create a property and liability self-insurance fund with an initial appropriation of \$7,000,000. Funds which are currently used by the Executive Council, the Appeal Board, and the Comptrollers Office could be used for part of this initial appropriation. Also, funds that are now spent on primary insurance coverage could be put into the fund. There should be an appropriation not to exceed \$7,000,000 every year thereafter until the self-insurance fund reaches a maximum dollar level of 20 million dollars. The funds should be managed by the Treasurer of State and invested prudently with any earnings returning to the reserve to help maintain the 20 million dollar level.

## VII. INSURANCE PURCHASING

### A. Present Arrangement

Presently, the State of Iowa does not purchase very many insurance policies in relation to their overall exposures. See Appendix A for current insurance coverages. However, most insurance that is purchased is done individually by state agencies using many different insurance agents or brokers.

On many occasions, when the state has attempted to purchase insurance, they have not had very many bidders. The main reason for this problem is the practice of most public entities that require that insurance contracts be put out to bid the same way as contracts for the supply of soap or paper. This bid system does not allow for a long-term close working relationship with high caliber underwriters. Good underwriters are reluctant to spend time and effort on bid business as they feel that the account will be moved in a year or two on consideration of price only rather than quality of service or flexibility of underwriting. Good underwriters often feel that such business does not justify the substantial amount of time initially required.

### B. Discussion

Use of brokers (or agents) to market insurance coverages should be organized more efficiently. There is no benefit to the state to splinter its insurance purchasing among a dozen or more brokers. The purchasing function should be consolidated in one, or perhaps two agents or brokers, who can demonstrate the experience and resources to handle an account of this magnitude. As with the selection of contract adjusters, selection of brokers with experience in large accounts and the facilities to provide superior service should be approached and requested to present their own proposal for an insurance program, without approaching any markets. They could be pre-selected by reputation, geographical location, size (premium volume, number of professional

- employees, or any other characteristic). If political pressure might be a problem, their criteria should be published in writing. Ultimate selection of a broker should be based upon the evaluation of:
1. Experience with other, similar complex accounts.
  2. Proposed insurance program.
  3. How the broker would propose to market the program including the companies to be approached.
  4. Qualifications and experience of broker's personnel to be assigned to the account.
  5. The fee that the broker will charge for handling the account.

Successful implementation of a program of high retention requires the assistance of a broker experienced in servicing self-insured accounts. Manuscripting and marketing excess coverages tailored to the individual insured is an art. Experience and up-to-date knowledge of the insurance marketplace are a broker's only guides to balancing breadth of coverage against reduction of the number of insurers willing to quote a price. Only personal judgement can dictate which difficult exposure should be insured separately in order to gain favorable rates on the balance of the package. The successful broker must do more than create the perfect insurance contracts, he must be able to "sell" it to the insurers.

C. Recommendations

16. Coordinate with the Purchasing Division to bid insurance in a way that will not create problems in the insurance markets.
17. Brokerage functions should be consolidated to preferably one broker with facilities to manuscript and market tailor-made coverage for the state.

VIII. RECORDS AND ACCOUNTING

A. Cost of Risk

Cost of risk is the total of four basic costs:

1. Net insurance premiums.
2. Unreimbursed losses (self-insured, self-retained)
3. Risk control and loss prevention expenses.
4. Administrative costs.

Currently, information on the total cost of risk for the State of Iowa is only partially available, but can be summarized in the following table:

1. Net insurance premiums	\$2,053,355
(See appendix A)	
2. Unreimbursed losses	\$4,120,922
(See appendix B)	
3. Risk control, loss prevention	unknown
4. Administration	
Risk Management budget	\$50,000
Uninsured loss adjustment expense (Estimated at 6% of \$4,120,922)	<u>\$247,255</u>
TOTAL COST OF RISK	<u>\$6,471,532</u> plus Risk Control Expense

Insurance coverage is purchased by state agencies, such as the universities and the Risk Management Division and also by outsiders, such as contractors bidding on construction jobs. Most insurance premiums are recorded as such, but a certain percentage is lumped into bid prices by suppliers and contractors. Non-insured losses may be paid by funds administered by the Appeal Board or Executive Council or may be debited against agency operating or maintenance

funds. Likewise, the cost of risk administration is scattered through various agencies. This cost should include the hours devoted by other agency management or clerks to direct purchase of insurance and internal allocation of premiums.

Central collection of data on the cost of risk is fundamental to a number of activities. First, it allows evaluation of results obtained in return for dollars spent. It can also be a useful risk retention guideline; as discussed in the risk retention section, the risk manager can be given a permissible maximum variance from his total budget and can adjust his insurance buying and retention procedures accordingly. Third, complete data on the State's cost of risk over a period of years is an invaluable trending and budgeting tool.

#### Recommendations

18. The Risk Management Division should be the central repository for complete data on the state's cost of risk. The data should be divided into: insurance premiums paid, by line of coverage; all losses incurred by line of exposure; loss control costs (including contract services); and all administrative costs.

#### B. Cost Allocation

In the interest of simplicity, the self-insurance fund should be a single appropriation from the General Fund. In cases where losses and expense are currently paid from other sources, such as the road use fund for DOT losses and from income of the universities auxiliary enterprises, then the self-insurance fund can make assessments to these agencies.

However, if it is felt that a total cost allocation to the individual agencies is necessary, there is a way to do that. There are a number of reasons for allocating risk management costs to individual agencies, including:

1. To better identify the cost of operating a department. This is especially

important for activities that are to be self-sufficient (for example, medical services).

2. Allocation of losses can promote cooperation with loss control efforts and focus management's attention on problem areas.
3. When a particular agency or department receives a percentage of its income from the federal government, including risk management costs in its budget can sometimes increase the amount of federal reimbursement.

The risk management costs to be allocated include losses, premiums and overhead (costs of operating the risk management department, internal and external claims administration and outside services), i.e., the total cost of risk.

In order to avoid expensive processing of minor claims, it is generally advisable to set a minimum dollar figure on claims to be presented to the central risk management fund for payment. For example, the individual agencies might be asked to bear the first \$500 or \$1,000 of each loss. Another reasonable figure to use as a deductible would be one-tenth of one percent of each agency's budget; the same formula used to calculate the State's risk bearing capacity. A problem with any deductible system is the reporting of claims that are under the deductible. If the agency absorbs the cost of a small loss, no great need is perceived to file a report of the occurrence. If not reported, these small but frequent, losses would be buried in operating or maintenance funds and central information on the State's cost of risk would be incomplete. A common method to encourage reporting of small losses is to set an annual aggregate deductible for each agency. For example, if the agency occurrence deductible is set at one-tenth of one percent, the aggregate might be set at one percent of budget. Thus, each agency is motivated to report

all small losses, especially if an accumulation of small losses starts to approach the annual aggregate.

Above the agency deductible, some system should be formulated to allocate costs of loss back to each department. In order to gain cooperation of agency managers, the risk manager must devise an allocation system that is sensitive to loss, fair to all agencies, and simple to understand. A system which fits all of these criteria is the implementation of a three or five-year rolling average. Each department would include within its budget a percentage of total losses (property, liability and Worker's Compensation) which the State expects to incur in the year being budgeted. This percentage will be obtained by dividing each agency's actual incurred losses by total state losses for the three years (or five years) commencing four (or six) years prior to the year being budgeted. The three-year allocation is probably the more reasonable time period. If allocation of a \$700,000 loss back to a department over a three-year period might be disruptive to budgeting, a cap can be set on the size of losses which will be included in the average. For example, the cap might be set at \$250,000 per occurrence with the central fund absorbing the balance of the catastrophe loss. Although such a cap does smooth the budgeting process for individual agencies, it has the disadvantage of not allocating the entire cost of risk back to the originating agency.

Allocation of excess insurance premiums and overhead must be handled in another fashion. Again, the allocation system must balance the objectives of fairness and simplicity. Overhead can be allocated as a percentage of loss cost. Thus, once the three-year rolling average percentage is calculated, the same percentage figure can be applied to overhead. If any special services, such as special engineering studies,

are supplied to one department, that cost can be billed separately to the user in addition to the budgeting overhead charge. However, special billings should be used sparingly as they might discourage departments from using services which are expensive but considered necessary by the Risk Management Division.

Allocation of excess insurance premium require consideration of the relative exposures of each agency. Obviously, special coverages such as aircraft liability should be allocated only to agencies owning or using aircraft. Excess auto premiums can be charged at a flat rate per vehicle or type of vehicle, but care should be given to keeping the system simple. Fairness would dictate a scale of rates for private passenger, light truck, heavy vehicles and buses, but such detail can quickly become an administrative quagmire. If possible, it is best to use one rate or at most two, applied against the average number of vehicles maintained by each agency over the year. Excess property premiums can be billed at an average rate per hundred of valuations over the loss cap or over the retention if no cap is used. Thus, an agency with no buildings exceeding the cap would pay no excess property premium. An agency with one building valued at \$1 million would pay premium on the value which exceeds the loss cap or retention. General liability, Worker's Compensation and other miscellaneous premiums can be allocated proportionately with losses and overhead.

#### Recommendations:

19. Per occurrence and annual aggregate deductibles should be set for all agencies in order to eliminate overprocessing of insignificant claims.
20. The Risk Management Division should use all means possible to

encourage agencies to report all losses.

21. Losses could be allocated back to the originating agencies using a three-year rolling average method with overhead as an additional amount. Excess premiums could be allocated by formulas reflecting exposure.

#### C. Property Valuation

As part of its loss quantification responsibility, the Risk Management Division should keep or have access to accurate property values for all state properties. Such information is essential for cost allocation, negotiation of insurance and evaluation of exposures to loss. Currently, values are kept by the agency having jurisdiction over the property. Records kept agency by agency are not consistent in their basis for valuation and updating of values may not be consistent with current replacement costs.

As there is no other central repository for property valuation records, the Risk Management Division should undertake the substantial task of surveying, diagraming and evaluating hazards for each building. The Risk Management Division can hire a full-time staff person to undertake the task or can contract out the project. If contracted out, the Division should obtain quotes from several firms such as survey companies specializing in such work for insurance companies on a contract basis.

Most firms are willing to work directly with public entities. They are capable of producing a written report for each building inspected encompassing replacement cost valuation and diagram of the structure, description of boilers, occupancy hazards and fire protection features and basic comments on fire loss prevention. If desired, additional comments on Worker's Compensation and public safety can be included. As an

additional consideration such inspection reports by an outside firm are a useful tool for the safety director and adds credibility to the property insurance marketing package which must be assembled by the broker in order to market an excess property insurance program for the state.

Once obtained, property valuation information can be kept on computer files and updated with inflation factors supplied by a widely accepted service like Marshall Swift. The Marshall Swift guide is an excellent reference tool and includes monthly updates on inflation factors for construction. This guide should be part of the Risk Management Division library.

#### Recommendations

22. The Risk Management Division should be the central repository for property valuations for all state property.
23. The Risk Management Division should undertake or contract out a complete survey.
24. Once collected, the information should be entered in an electronic data processing system and updated with Marshall Swift (or other valuation services) inflation factors.

#### D. Loss Records

A complete and well organized set of loss records is the basic tool of the Risk Manager. Without them, he cannot exercise effective control of the risk management program. As indicated elsewhere in this report, many conclusions could not be precisely supported because of a deficiency in state loss data. Accurate historical loss information influences the following:

1. Determination of risk exposure areas to be self-retained.
2. Loss prevention planning.

3. Cost allocation.
4. OSHA record requirements.
5. Insurance cost negotiations.
6. Loss reserve calculations.

Loss data should be retained as long as possible. A minimum of five years of detailed loss data should be kept on file. If possible, detailed records should be kept for ten years. If space is a problem, at the end of ten years the information can be summarized and the detailed records destroyed.

Claim files for liability and Worker's Compensation should also be retained until well past any possible statute of limitations for reopening the claim. Details of significant claims or claims which set precedents should be retained indefinitely. The Attorney General's Office should be able to provide the guidance on retention of any files involving litigation or possible litigation. Details of losses to state property should be retained only as long as they have value for loss control activities. When the data is no longer needed for loss control, the information should be summarized and kept as part of the historical record of the cost of risk.

## CHAPTER 4

### RISK IDENTIFICATION AND EVALUATION

## CHAPTER 4 -- RISK IDENTIFICATION AND EVALUATION

### I. INTRODUCTION

The first two steps in risk management are to identify the various types of potential losses confronting the state and to evaluate the potential losses that are identified with respect to such matters as their likelihood of occurrence, their severity, and their predictability. Unless the Risk Manager identifies and evaluates all potential losses confronting the state, he will not have any opportunity to determine the best way to handle the undiscovered risks. The state will unconsciously retain these risks, and this may not be the best or even a good thing to do.

Soon after the Risk Management Division began, a questionnaire was developed and sent to all agencies of the state. The main purpose of the questionnaire was to get a rough idea of the property and liability exposures that face the state. The information in this report was primarily gathered by the use of the questionnaire. Therefore, its accuracy directly relates to how accurately each state agency reported the information. In some cases, the needed information simply was not available or it was only partially available. Part of our continuing duties will be to go more in-depth in gathering information on property and liability exposures.

The following section of this report discusses some of the major risk exposures of the state. It is not intended to be an exhaustive list of all the possible risks that affect the state.

II. AUTOMOBILE RISKS

A. Exposures to Loss

The state currently owns approximately 6973 vehicles. This figure varies as old vehicles are auctioned and new vehicles are purchased, but can be broken down as follows:

Dept. of Transportation	3,525
Gen. Serv. Vehicle Dispatcher	2,120
Iowa State Fair Board	26
Regents Institutions:	
SUI	551
ISU	543
UNI	178
IBSSS	15
ISD	<u>15</u>
TOTAL	6,973 Vehicles

From a liability standpoint, the operation of these vehicles represents a significant exposure to loss. A collision with a school bus, for example, or even with a vehicle having five or six passengers could cause a substantial liability claim against the state.

As an example, in the State of Illinois, a 21 year old college student was awarded \$2,250,000 for damages resulting from an automobile accident in 1968. This particular victim cannot speak or walk and requires constant attention. Current conservative mortality prediction on this victim's life is 53 years. Extending his cost of care for that period of time amounts to an expected cost of approximately \$3,400,000.



Although this amount is not quite as bad as what might be expected in a catastrophe in a public meeting place, one can see that a large number of paraplegic injuries to a group of school children riding in a school bus could easily exceed a \$20 million loss figure. The State of Iowa has been extremely lucky and never experienced a large auto liability loss. However, the potential for a large loss is a very real one and cannot be overlooked in a comprehensive risk management program.

From a physical damage standpoint, there is a much smaller potential loss than from liability. While the total value of state owned vehicles is approximately \$42,000,000, the potential loss would not be that great because of the relatively small unit values and the spread of the risk. The largest potential physical damage loss would be where a large number of vehicles are exposed to a potential catastrophic loss. For example, the State Vehicle Dispatcher may have as many as 200 cars parked in his yard in Des Moines. A similar situation exists in Ames with the Department of Transportation and the three state universities. Assuming an average value of \$6,000 per vehicle, there is a potential for over a \$1 million loss, depending on the number of vehicles involved and the severity of damage.

B. Present Funding

The state's approach to funding automobile losses has basically been to buy insurance for the liability exposure and retain or self-insure the exposure of physical damage to state vehicles. The three state universities do buy physical damage insurance on a small percentage of their vehicles. Most all liability policies had limits of \$500,000 per occurrence.

In the first part of 1980, the state had seven separate automobile insurance policies and the State Fair Board vehicles were not insured at all. We added the Fair Board vehicles to the Vehicle Dispatcher's policy early in the year.

The seven policies and their annual premiums were as follows:

Department of Transportation	\$372,738
State Vehicle Dispatcher	244,593
University of Iowa	74,943
Iowa State University	38,893
University of Northern Iowa	19,123
Iowa Braille and Sight Saving School	1,491
Iowa School for the Deaf	<u>2,793</u>
TOTAL	\$754,574

For the renewal of coverage, effective 7-1-80, the Risk Management Division attempted to combine all policies into one. However, the Regents Institutions had already sent their coverage out to bid. We did combine the majority of vehicles by writing one policy for the Department of Transportation and the State Vehicle Dispatcher. The coverage was increased from \$500,000 per occurrence to \$1,000,000 per occurrence and the premium was reduced from \$617,331 to \$493,079, a savings of \$124,252. The \$493,079 premium through Employers Mutual of Des Moines is based on a retrospective rating plan. This means that the final premium will relate directly to the state's liability losses. However, expected losses, based on past history, should make the final premium less than \$550,000, which is still a considerable savings with double the coverage. Since we are paying the premium quarterly, we have the additional cash flow benefit of keeping our money longer and not prepaying all of it to the insurance company. For the renewal effective 7-1-81, we will attempt to add the five Regent's Institutions to this policy, assuming we are still insuring this risk.

As was mentioned previously, the physical damage losses to state vehicles is primarily self-insured. These losses are normally paid from the operating

budget of the department that owns the vehicle. Uninsured physical damage losses for the State Vehicle Dispatcher's 2,100 cars, over the past three years has averaged approximately \$122,000 per year. Physical damage loss data on other vehicles was not available.

#### C. Discussion

The Risk Management Division pursued other alternatives before purchasing insurance on the July 1 renewal. The biggest consideration was whether we should self-insure the auto liability exposure. Since the state's loss ratio for the past four years averaged 54.6%, we felt that considerable money could be saved by self-insuring. This would require purchasing the claims adjusting services separately to replace this service now provided by the insurance company. However, the current Iowa law requires that any uninsured tort liability claim must be settled by the State Appeal Board. This would mean that the Appeal Board would have to settle approximately 700 more claims per year, in addition to the 200 general liability claims per year they already handle. The option to contract with an outside claims adjusting service firm is not allowed in the Code. Because of this, self-insuring auto liability claims was not a feasible option.

Buying first dollar insurance coverage is not a cost effective way to handle the auto liability exposure. With its current assets, the state could easily retain the first \$1,000,000 of loss per occurrence on both liability and physical damage. These losses should be funded by the Self-Insurance Fund that is recommended elsewhere in this report. Also, the auto exposure should be included in the excess liability and property insurance coverage that has been recommended. Under the proposed claims administration program, the code would be amended to allow the Risk Management Division to contract with outside claims adjusting service firms to investigate and adjust all claims.

#### D. Recommendations

25. Discontinue buying first dollar auto liability and physical damage insurance and retain this exposure up to the state's tolerable retention level. Uninsured losses can be paid from the self-insurance fund.
26. Include auto liability and physical damage exposures in the overall excess insurance coverage.
27. Amend the Tort Claims Act to allow the Risk Management Division to contract with claims adjusting service firms for auto liability claims.

III. AVIATION RISKS

A. Exposure to Loss

The state owns and operates 20 aircraft of varying size and description. Iowa State University has 8; Department of Public Safety has 7; Department of Transportation has 4; and the Attorney General has 1. National Guard aircraft are apparently all owned by the federal government who is responsible for them. Total hull value for all aircraft is \$1,841,670 and can be broken down as follows:

AIRCRAFT SCHEDULE

<u>Location:</u>	<u>Hull Value</u>
<u>Des Moines Airport</u>	
Piper Cheyene - DOT	\$750,000
Piper Aztec - DOT	80,000
Piper Aztec - DOT	70,000
Cessna 182 - PS	46,925
Cessna 172 - PS	24,800
Bellanca Viking 500 - AG	<u>21,800</u>
<u>TOTAL - Des Moines</u>	<u>\$993,525</u>
<u>Ames Airport</u>	
Piper Aztec - DOT	\$ 55,000
Aero Commander 500 - ISU	195,000
Aero Commander 500 - ISU	150,000
Aero Commander 500 - ISU	125,000
Aero Commander 500 - ISU	75,000
Piper PA 28 - ISU	24,000
Piper PA 28 - ISU	24,000

AIRCRAFT SCHEDULE

<u>Location:</u>	<u>Hull Value</u>
<u>Ames Airport (cont.)</u>	
Piper PA 28 - ISU	\$ 24,000
Piper PA 28 - ISU	<u>20,000</u>
<u>TOTAL - Ames</u>	\$ 692,000
<u>Atlantic Airport</u>	
Cessna 172 - PS	26,465
<u>Cedar Rapids Airport</u>	
Cessna 172 - PS	26,465
Cessna 172 - PS	24,815
<u>Storm Lake Airport</u>	
Cessna 172 - PS	39,200
<u>Waterloo Airport</u>	
Cessna - PS	<u>39,200</u>
<u>TOTAL AIRCRAFT</u>	\$1,841,670

The increase of activity in use of commercial aircraft around major metropolitan areas make the operation of owned aircraft subject to an increasingly large exposure to accident and possible liability loss.

It is always possible that the operation of aircraft in and around major airports can involve a state owned airplane in an at-fault accident with a large commercial aircraft. The potential liability for a DC-10 or a 747, for example, is astronomical. The potential liability estimated as follows:

300 passengers @ \$250,000 = \$75,000,000

Hull value = \$25,000,000

\$100,000,000 TOTAL LOSS

Even smaller jets, such as 707's and DC-8's represent tremendous potential liability estimated as follows:

135 passengers @ \$250,000 = \$33,750,000

Hull value = \$10,000,000

\$43,750,000 TOTAL LOSS

In addition to these amounts, there is the loss of use of the hull which is difficult to estimate, but would be a sizable loss.

B. Present Funding

The state currently purchases 4 separate insurance policies to cover their aircraft exposures. All aircraft insurance is primary with no excess insurance coverage.

Iowa State University - (8)

Annual premium \$13,004

Coverages - 100,000/500,000 Bodily Injury excluding passengers

\$100,000/600,000 Passenger BI

\$100,000 Property Damage

\$300 Each Person - Medical

\$500 deductible - In motion damage

\$100 deductible - Not in motion damage

Department of Public Safety - (7)

Annual Premium - \$2,870

Coverages - \$1,000,000 single limit per occurrence

BI and PD, including passengers.

No physical damage or medical coverage.

Department of Transportation - (4)

Annual Premium - \$9,428

Coverages - \$5,000,000 single limit each occurrence BI & PD, including passengers.

No medical coverage, physical damage is self-insured, except for the Piper Cheyenne, which is covered with a \$25,000 deductible in motion and not in motion.

Attorney General - (1)

Annual Premium - \$300

Coverages - \$1,000,000 single limit per occurrence

BI and PD, including passengers

No physical damage or medical coverage.

C. Discussion

The limits of liability currently in force are adequate as a primary layer of coverage. However, considering the magnitude of potential liability arising from the operation of aircraft, the state is nowhere near covered for their potential liability exposure. Additional coverage can and should be purchased as part of the overall excess property and liability insurance program. The primary coverage now purchased could be discontinued and coverage provided by the self-insurance fund currently proposed.

Loss due to physical damage is limited to the actual cash value of the aircraft involved. Loss of one or several of these aircraft is not beyond the tolerable loss level of the state and could be self-insured through the fund.

D. Recommendations

28. Self-insure the primary liability and physical damage exposure for aircraft up to the state's tolerable retention level.
29. Purchase excess limits of liability for aircraft up to as high as \$100 million per occurrence.

IV. BOILER AND MACHINERY RISKS

A. Exposures to Loss

In determining the maximum possible loss that the state could experience from a boiler and machinery accident, the following factors are considered:

1. Equipment values
2. Value of buildings housing the equipment.
3. Surrounding building values.
4. Contents value of the buildings.
5. Third party liability for bodily injury to the public and damage to the property of others.
6. Bodily injury to state employees.

The state has several boiler and machinery objects that serve various state owned buildings. The Capitol Complex has an energy plant; each Social Services' Institutions and the five Regents' Institutions also have energy plants.

The potential loss from a boiler explosion could be tremendous. For example, the power plant at Iowa State University has an estimated replacement cost of \$75,000,000. If an explosion completely destroyed the plant plus damaged surrounding buildings and caused bodily injury to a number of people, the loss could be in the \$100 million dollar range.

The exact number and value of all the state's boiler and machinery objects is not now known because they were not separately shown on building values that were received. However, the figure shown above is a good estimate of the maximum potential loss in any one occurrence.

B. Present Funding

All losses to boiler and machinery objects are considered property losses and are settled by the State Executive Council. Losses are paid from a standing unlimited account according to Chapter 29C.20 of the Iowa Code. There

is currently no insurance purchased for this exposure.

In the past two years there have been four losses to boiler and machinery objects as follows:

<u>Loss</u>	<u>Amount</u>
Fire at ISU Power Plant	\$12,000
Damaged equipment SUI Power Plant	\$23,000
Fire at ISU Power Plant	\$1,500,000
Steam line explosion - Capitol Complex	<u>\$175,000</u>
TOTAL	\$1,710,000

While the losses that have occurred seem relatively small, there is still the potential for a very large loss.

C. Discussion

Boiler and machinery insurance is different from most other forms of insurance in that its primary purpose is to prevent losses from occurring by proper and regular inspection services--rather than merely paying for such losses after they have occurred. As a result, about 40% of the premium is used to pay for the cost of inspections. Currently, the Bureau of Labor works in cooperation with various insurance companies to determine the operational safety of all pressure vessels in the state. Since there is no insurance coverage on state-owned pressure vessels, the Risk Management Division needs to be sure that all boiler and machinery objects are regularly inspected by the Bureau of Labor.

Since inspections obviously cannot eliminate all losses, the state needs to self-insure this exposure to a tolerable level and then include it in overall excess property and liability insurance.

D. Recommendations

30. Make certain that all state-owned boiler and machinery objects are

regularly inspected by the Bureau of Labor.

31. Include the boiler and machinery exposure in the overall excess property and liability insurance.

## V. CRIME RISKS

### A. Exposures to Loss

The two basic crime exposures that the state faces are employee dishonesty and non-employee burglary, robbery, forgeries, and theft.

Employee Risks - The risk of loss from employee dishonesty is significant, but normally not catastrophic. Revenues and appropriations of the state collected and expended annually represent an important exposure to loss. In its handling of money and securities, the state has many similarities to the operation of a large bank. The American Banker's Association reports that, in spite of opinions that internal controls and audit procedures are sufficiently effective, financial institutions of all sizes should not overlook the possibility of a large embezzlement. Insured losses exceeding \$250,000 have been experienced by large financial organizations. In the state's Beer and Liquor Control Department, employee and non-employee, crime losses exceeded \$250,000 this past year in the operation of state liquor stores.

Losses may also occur from employee negligence or "failure to faithfully perform" the duties of office. The term "faithful performance" goes further than honesty and implies that a person may be held responsible for loss of property, including money, entrusted to him even though he has been entirely honest in his conduct. Nonfaithful performance would include acts or omissions constituting malfeasance, misfeasance, and nonfeasance.

Non-Employee Risks - In the normal course of state business, agencies may have large amounts of money and securities on their premises, numerous bank accounts, securities, trust funds and other valuable property. These activities create exposure to loss, not only through employee dishonesty or carelessness, but also by the criminal acts of third parties, transportation mishaps, bank failures, forgeries, etc.



## B. Present Funding

The state purchases faithful performance (including honesty) coverage under a blanket faithful performance position bond in an amount of \$100,000 per employee. Certain high risk positions have additional coverage up to \$500,000. They also purchase individual bonds on those people in positions that the Code requires an individual bond. The National Guard purchases a return of property bond to fulfill Code requirements. Also, each of the Regents institutions purchases bond coverage for its employees.

Generally speaking, the state does not buy crime insurance for money, securities, and other valuable personal property. The only exception is the state universities which purchase some burglary, robbery and theft coverage.

The current annual premium for fidelity and crime insurance is \$27,836.

## C. Discussion

Historically, in order to comply with state statutes, one of the qualifications for office requires a public official to have a bonding company pass on the person's ability, honesty, integrity, etc. Therefore, the public official has to qualify by posting a surety (faithful performance) bond. Practically speaking, the bonding company spends little time in passing on the official's qualifications, particularly when a blanket faithful performance bond is maintained.

Prior to 1978, the state was purchasing individual and named schedule bonds. These bonds were fairly expensive and required a change every time a person left or started in a particular job. With the many state employees that were involved, this created a paperwork nightmare. Things became much better in 1978 when the Executive Council approved purchasing a blanket

position bond for those employees that did not require an individual bond.

By doing this, the state saved about \$16,000 a year in premium, and did away with most paperwork. However, there is still many individual bonds required that creates additional paperwork.

By a code change, the state could eliminate individual bonds and buy a blanket bond. A straight blanket bond provides one limit of coverage per occurrence no matter how many employees are involved and there is no need to name any individual or position. This eliminates paperwork and, in addition, it is about 15% less than the cost of a blanket position bond the state now purchases.

The past losses on bond coverage for the state have been insignificant and well within the tolerable loss level of the state. This is an area that could easily be self-insured instead of buying first dollar bond coverage. After all, an embezzlement of \$50,000 and a fire loss of \$50,000 have exactly the same financial effect on the state. It makes no sense to insure the bond exposure and buy no fire insurance on the property.

Also, the embezzlement loss has a good chance of being recovered while the fire loss does not. Technically, a surety should not sustain any losses, because they can legally collect from the individual who caused the loss. Realistically, sureties usually collect 30 to 50% of their losses depending on how aggressively they pursue them. The state could pursue self-insured surety losses and collect at least 30% of the time.

In order to purchase a blanket bond or to self-insure the fidelity exposure, the Code of Iowa must be changed. To eliminate having to go back and change every section of the Code that mentions bonding, a simple statement should be inserted in the code, probably in Section 64.2. For example:

"When an officer or employee of the state is required to furnish a fidelity

or faithful performance bond, the state will provide for payment of the premium on the bond from state funds. In lieu of individual bonds, the state may provide for a blanket bond furnished by a surety company to cover any officer or employee required to furnish a bond, if all obligations required by law, to be assumed by the principal and his sureties, by an individual bond, are included in the blanket bond. If it is deemed appropriate, the state may purchase a bond with a per loss deductible or may totally self-insure this exposure."

This statement will allow the state to retain this exposure to a tolerable level and then include the exposure in the overall excess property and liability insurance coverage.

Non-employee crime risks to which the state is exposed are probably not as significant as the employee crime risks. The three universities have purchased insurance for non-catastrophic crime losses--losses which fall well within the state's tolerable loss level and should be self-insured. There is always the possibility that a catastrophic loss exists so that this exposure should be included in any excess insurance coverage.

#### D. Recommendations

32. Amend the current law to allow the state and its agencies to self-insure surety bonds rather than being obligated to purchase the coverage from an authorized surety.
33. Discontinue current money and securities and burglary and robbery insurance at the universities.

## VI. PROPERTY RISKS

### A. Exposures to Loss

#### Direct Loss

The State of Iowa owns approximately \$3 billion worth of buildings and personal property (excluding vehicles and aircraft) on a replacement cost basis.

There is no central place where the state's property values are kept. Individual agencies keep records of their buildings and a computer run of their inventory of furniture and fixtures. The accuracy of some of these inventories is questionable. Also, the inventory is valued at original cost, not actual cash value or replacement cost.

We arrived at the state's property values from currently available records and not by a detailed inspection of each premises. We obtained records on the square footage of the buildings and used a current cost per square foot to arrive at the replacement cost. On personal property, we used inventory computer runs at original cost, and assuming an average 5 year age and 10% a year inflation, we multiplied the original cost by 1.5 to arrive at the replacement cost. As you can see, this imperfect processes leaves room for error, but its the best process we have at this time. Keep in mind that on \$3 billion worth of value, an error of only  $\pm 10\%$  is \$300,000,000.

As stated in Sec. VIII of the third chapter, the state needs to do detailed inspections of all buildings and contents and put these values on the computer so they can be updated at regular intervals by a current cost factor.

The following map of Iowa shows the total building and contents value of state-owned property as we have calculated it, by county. This does not include land values, bridges, overpasses, highways, road

signs, or vehicles and aircraft.

Pages 78-80 give a breakdown of the property locations over \$1,000,000 by county. Page 81 is a breakdown of the Capitol Complex and pages 82-86 is a breakdown of the Regents Institutions.

STATE OF IOWA  
REPLACEMENT COST OF STATE OWNED BUILDINGS AND CONTENTS

LYON	OSCEOLA	DICKINSON	EMMET	KOSSUTH	WINNEBAGO	WORTH	MITCHELL	HOWARD	WINNEBAGO	ALLAMAKEE
330	271	3,428	1,102		381	680	1,122	563	1,381	2,085
SIoux	OBRIEN	CLAY	PALO ALTO	878	HANCOCK	CERRO GORDO	FLOYD	CHICKASAW	FAYETTE	CLAYTON
366	976	1,632	488		447	4,505	716	492		
PLYMOUTH	CHEROKEE	BUENA VISTA	POCAHONTAS	HUMBOLDT	WRIGHT	FRANKLIN	BUTLER	BREMER	1,627	1,796
1,040	29,165	1,911	288	2,574	1,268	1,254	335	734		
WEBSTER	IDA	SAC	CALHOUN		HAMILTON	HARDIN	GRUNDY	BLACK HAWK	BUCHANAN	DELAWARE
4,838	569	1,937	5,356	3,456	1,698	17,712	211	312,448	28,807	2,483
MONONA	CRAWFORD	CARROLL	GREENE	BOONE	STORY	MARSHALL	TAMA	BENTON	LINN	JONES
2,247	1,231	558	651	49,524	857,934	54,331	8,482	15,104	5,399	43,466
HARRISON	SHELBY	AUDUBON	GUTHRIE	DALLAS	POLK	JASPER	POWESHIER	IOWA	JOHNSON	CLINTON
821	1,110	570	3,704	1,475	303,321	4,641	1,083	653	964,196	1,580
POTTAWATTAMIE	CASS	ADAIR	MADISON	WARREN	MARION	MAHASKA	KEOKUK	WASHINGTON	MUSCATINE	SCOTT
28,512	2,041	572	610	1,367	2,390	1,417	183	1,743	2,116	4,582
MILLS	MONTGOMERY	ADAMS	UNION	CLARKE	LUCAS	MONROE	WAPELLLO	JEFFERSON	HENRY	LOUISA
53,145	1,782	750	870	975	3,100	399	1,921	1,991	26,571	338
FREMONT	PAGE	TAYLOR	RINGGOLD	DECATUR	WAYNE	APPANOOSE	DAVIS	VAN BUREN	LEE	DES MOINES
1,073	27,018	1,029	324	618	286	2,642	942	1,516		1,643
									54,639	

TOTAL VALUE \$3,002,949,000 \*Numbers are in thousands (000)

Major Property Values

<u>County</u>	<u>City</u>	<u>Property</u>	<u>Replacement Value</u>
Benton	Vinton	Iowa Braille and Sight Saving School (12)	\$ 14,568,000
Blackhawk	Cedar Falls	UNI (80)	306,538,000
	Waterloo	National Guard	1,768,000
Boone	Woodward	Woodward State Hospital (106)	39,944,000
	Boone	National Guard	1,665,000
	Farms	I.S.U.	6,098,670
Buchanan	Independence	Independence Mental Health (38)	28,270,000
Buena Vista	Alee Farm	I.S.U.	1,110,450
Calhoun	Rockwell City	Women's Reformatory (11)	4,700,000
Cedar	West Branch	IPBN Bldg., Tower & Equip.	3,717,000
Cherokee	Cherokee	Cherokee Mental Health (27)	27,770,000
Delaware	Backbone State Park	Conservation Comm.	1,415,000
Dickinson	Okoboji/Spirit Lake Area	Conservation Comm.	2,800,000
Guthrie	Springbrook Park & Conservation Ed. Cntr.	Conservation Comm.	3,122,000
Hardin	Eldora	Training School (24)	16,192,000
Henry	Mt. Pleasant	Mt. Pleasant Mental (26) Health	24,167,000
	Geode State Park	Conservation Comm.	1,237,000
Humboldt	Bradgate	IPBN Bldg., Tower & Equip.	1,978,000
Jasper	Newton	Riverview Release (32)	2,835,000
Johnson	Iowa City	S.U.I.	950,620,000
	Oakdale	Medical Facilities (5)	9,816,000

## Major Property Values (cont.)

<u>County</u>	<u>City</u>	<u>Property</u>	<u>Replacement Value</u>
Jones	Anamosa	Men's Reformatory (31)	\$ 42,798,000
Lee	Fort Madison	State Penitentiary (26)	53,200,000
Lucas	McNay Farm	I.S.U.	1,794,780
Marion	Red Rock Lake Area	Conservation Comm.	1,584,000
Marshall	Marshalltown	Iowa Veterans Home (31)	52,932,000
Mills	Glenwood	State Hospital (84)	51,902,000
Page	Clarinda	Mental Health (29)	25,732,000
Polk	Des Moines	Capitol Complex (15)	157,748,910
	Des Moines	Red Horse Armory--National Guard	1,480,000
	Grimes	Camp Dodge (200)	18,100,000
	Grimes	Liquor Warehouse and Inventory	15,000,000
	Des Moines	Fairgrounds (58)	46,000,000
	Des Moines	Terrace Hill	3,436,000
	Des Moines	IPBN Bldg., Equipment and Mobile Equipment	7,800,000
	Grimes	Law Enforcement Academy	3,956,000
	Des Moines	Blind Commission	13,146,000
	Des Moines	Public Safety, Hdq., Garage & Communications	4,904,000
	Des Moines	Ft. Des Moines Residential	2,290,000
	Mitchellville	Girls Training School (12)	5,270,000
	Alleman	IPBN, Tower & Equipment	3,040,000
	Des Moines	Air National Guard, D.M. Airport	5,200,000
	Ankeny Farm	I.S.U.	3,726,390

## Major Property Values (cont.)

<u>County</u>	<u>City</u>	<u>Property</u>	<u>Replacement Value</u>
Pottawattamie	Council Bluffs	Iowa School for the Deaf (19)	\$ 21,052,000
	Oakland	IPBN, Tower & Equipment	1,934,000
Sac	Lake View & Blackhawk Lake Area	Conservation Comm.	1,653,000
Scott	Davenport	National Guard	2,294,000
Story	Ames	I.S.U.	818,723,000
	Ames	D.O.T. Headquarters	25,000,000
	Ames	Conservation Comm.	1,683,000
	Outlying Farms	I.S.U.	11,307,000
Tama	Toledo	Juvenile Home (14)	7,532,000
Woodbury	Sioux City	IPBN, Tower & Equipment	1,202,000

## IOWA CAPITOL COMPLEX

18

REGENTS PROPERTY VALUES--REPLACEMENT COST

1. University of Iowa - Iowa City and Oakdale (Johnson)

Real Property - Buildings	\$682,186,870
Personal Property	268,432,500
Vehicles - Mobile Equip.	
551 vehicles @ \$8,000	4,408,000
TOTAL	\$955,027,370

2. Iowa State University - Ames and outlying farms (Story)

Real Property - Buildings	\$673,547,600
Personal Property	145,175,415
Vehicles - Mobile Equip.	
543 vehicles @ \$8,000	4,344,000
Aircraft (8)	637,000
Farms	25,407,090
TOTAL	\$849,111,105

3. University of Northern Iowa - Cedar Falls (Blackhawk)

Real Property - Buildings	\$273,028,705
Personal Property	33,508,895
Vehicles - Mobile Equip.	
178 vehicles @ \$8,000	1,424,000
TOTAL	\$307,961,600

4. Iowa Braille and Sight Saving School - Vinton (Benton)

Real Property - Buildings	\$ 13,613,200
Personal Property	954,665
Vehicles - 15 vehicles @	
cost new	114,892
TOTAL	\$ 14,682,757

5. Iowa School for the Deaf - Council Bluffs (Pottawattamie)

Real Property - Buildings	\$ 19,426,770
Personal Property	1,625,324
Vehicles - 15 @ \$7,000	105,000
TOTAL	21,157,094

MAJOR BUILDINGS  
UNIVERSITY OF IOWA

Schaeffer Hall	6,117,000	Hillcrest	18,736,000
Chemistry-Botany	15,578,000	Hospital School	6,368,000
Jessup	5,317,000	Library and Books	120,000,000
Pharmacy	5,403,000	Hawkeye Drive Apartments	12,095,000
McBride	6,162,000	Philips Hall	6,173,000
East Hall	10,160,000	English-Philosophy Bldg.	6,567,000
Zoology Building	7,315,000	Physics Building	13,998,000
Art Building	5,728,000	Basic Science Bldg.	22,820,000
Engineering	10,339,000	Music Building	7,662,000
MacLean	5,147,000	Hawkeye Court Apartment	21,980,000
General Hospital Complex and Contents (Insured)	120,775,000	Hancher Auditorium	7,750,000
Childrens Hospital	7,592,000	Oakdale Hospital	14,874,000
Phychiatric Hospital	6,540,000	Rienow Hall	8,170,000
North Hall	5,003,000	Slater Hall	8,170,000
Field House	15,278,000	Daum Hall	6,330,000
Kinnick Stadium	12,156,000	Stanley Hall	8,166,000
Quadrangle	9,685,000	Dental Science	14,000,000
Currier Hall	14,638,000	Health Science Library	6,120,000
Memorial Union	21,244,000	Recreation Building	6,894,000
Burge Hall	22,448,000	Lindquist Center	7,315,000
Law Center	5,305,000	Nursing Building	5,421,000
		Carver Pavilion	20,000,000

MAJOR BUILDINGS  
IOWA STATE UNIVERSITY

Curtiss Hall	7,105,000	Bessey	11,657,000
Kildee Hall	6,758,000	Gilman Hall	16,240,000
Physical Education	10,000,000	Pearson	5,110,000
Coover Hall	5,070,000	Physics Hall	11,165,000
Town Engineering Bldg.	7,607,000	Science Hall	15,193,000
Carver Hall	9,258,000	Veterinary Medicine	31,320,000
Stephens Auditorium	8,976,000	Veterinary Quadrangle	5,640,000
College of Design	10,766,000	Buchanan Hall	6,562,000
Hilton Coliseum	15,310,000	Oak-Elm Hall	9,907,000
Library & Books	75,660,000	Friley-Hughes Hall	25,491,000
Physical Plant	9,510,000	Helser	14,533,000
Power Plant	75,000,000	University Village	28,000,000
Scheman Hall	8,647,000	Knapp-Storms	17,973,000
Ross Hall	6,000,000	Linden Hall	8,388,000
MacKay Hall	6,074,000	Maple-Willow-Larch	25,336,000
Armory	6,420,000	Wilson-Wallace	18,725,210
Beardshear	7,304,000	Pammel Court	9,270,000
Beyer	8,550,000	Hawthorne	8,359,000
		Schilletter Village	20,115,000



ISU FARMS (25)

<u>BOONE CO.</u>		<u>STORY CO.</u>	
Bilsland	2,764,530	Akin	555,240
Swine Nut.	990,930	Farm Maint.	80,190
Ag. Engineering & Agronomy	<u>2,343,210</u>	Hinds	134,610
	6,098,670	Horticulture	128,760
<u>BUENA VISTA CO.</u>		New Horticulture	858,840
Allee Mem.	1,110,450	Plant Intro.	735,720
<u>HAMILTON CO.</u>		Poultry	1,335,000
Coles	380,700	Ruminant	1,353,570
<u>LUCAS CO.</u>		Woodruff	657,960
McNay	1,794,780	Bruner	32,790
<u>MONONA CO.</u>		Dairy Science	1,474,650
W. Iowa Exp.	478,710	Curtiss	1,140,630
<u>O'BRIEN CO.</u>		Ag. 450	697,260
N.W. Iowa Expermental	34,560	Animal Science	<u>2,121,900</u>
<u>SHELBY CO.</u>			11,307,120
Shelby-Grundy	433,500	<u>WRIGHT CO.</u>	
		Clarion-Webster	42,210

MAJOR BUILDINGS  
UNIVERSITY OF NORTHERN IOWA

Auditorium	6,058,000	Lawther	7,723,000
Baker	5,732,000	Library and Books	50,000,000
Bartlett	8,720,000	Noehren	9,359,000
Bender	7,090,000	Physical Education	7,344,000
Campbell	8,296,000	Price Lab School	10,000,000
Dancer	7,090,000	Rider	5,613,000
Education Center	9,397,000	Science	8,163,000
Hagemann	5,612,000	Shull	5,612,000
Hillside Court	15,302,000	Uni-Dome	13,120,000

It is obvious from the various concentrations of property values that the state could sustain a catastrophic property loss. The perils of fire, explosion, tornado, flood, and earthquake at certain locations in the state, could cause losses in excess of \$100 million.

#### Indirect Loss

Indirect property losses are additional losses that result from destruction of property. These losses are usually in the form of loss of revenue or extra expense.

Loss of revenue could occur with direct damage to the state liquor warehouse or stores, or damage to university student unions, athletic fields, dormitories and research facilities. Also, destruction of tax records could cause a loss of revenue.

Generally, however, these indirect losses take the form of an "extra expense" exposure, that is, the state would have to incur additional expense to continue service to its citizens if a particular structure were destroyed. As an example, destruction of an office building would not put the department housed there out of business, but would result in added expense for rent of temporary quarters, shift of telephone lines, etc.

One of the largest potential "extra expense" exposures is at the state and university libraries. If a library were destroyed, the additional cost of reconstructing the card catalogue and acquiring replacement books is about equal to the cost of the books themselves. This indirect exposure could result in a multi-million dollar loss.

In some instances, the indirect loss exposure due to destruction of a particular state facility cannot be measured. It basically consists of a loss of services to citizens rather than a monetary loss to the state. For example, the nature of the state universities is such that the administration,

faculty and students will attempt to continue university operations under the pressure of almost any type of emergency or loss. This is true whether the loss occurs to dormitories, classrooms, power plants, or food service facilities. While each source of a university's operating budget (student tuitions, the state, government grants, dorm fees and other sources) is important, there are few accidental losses which could have a significant direct effect on a university's budget. The spread of facilities and the general willingness to accept emergency conditions for a period of time generally protects the university from any real threat of a shutdown or return of tuition. Possible exceptions would be the loss of the central library, protracted energy crisis or a health epidemic. Emphasis should be placed on loss control in these areas.

#### B. Present Funding

On most property, the state is totally self-insured. The major exceptions are the Job Service Building, the three state universities, and DOT toll bridges. The Job Service Building was built with federal funds and there is apparently some requirement to carry insurance on the building. The state universities insure about 25% of their total property values. They primarily insure buildings that are self-sustaining enterprises such as dormitories, or buildings that require insurance because of a revenue bond requirement, or buildings that were totally financed by private contributions. The universities have several property insurance policies covering about \$550,000,000 in property values at a cost of about \$370,000 a year.

Because of revenue bond requirements, the Department of Transportation purchases coverage on four toll bridges that span the Mississippi River at Muscatine, Sabula, Lyons, and Dubuque. The total coverage on the

policy is \$10,340,000 plus coverage for loss of use. The annual premium is \$12,681.

Since the state buys relatively little property insurance, the majority of property losses are not insured. Small property losses are usually absorbed by the agency that suffers the loss in their operating budget. Large property claims are submitted to the State Executive Council for adjustment. Sec. 29C.20 of the Code creates a contingent fund for use by the Executive Council. This is a standing unlimited account that can be used for "...repairing, rebuilding, or restoring any state property injured, destroyed, or lost by fire, storms, theft or unavoidable cause ..."

When a claim is received by the Executive Council, they send an auditor from the State Auditor's Office to determine the scope of damage and give a recommendation to the Council. When a decision is reached on the amount of the loss, funds are authorized to pay for the loss. Any loss in excess of \$500,000 is referred to the legislature for an appropriation.

#### C. Discussion

Obviously, self-insuring such as the state does on their property, is the most cost-effective way to handle this risk. However, total self-insurance with no provision for the catastrophe is flirting with financial disaster. The state has been extremely lucky in the past and has not suffered a catastrophic property loss. This however, does not alter the fact that a multi-million dollar property loss is a definite possibility.

In fiscal year 1979, the Executive Council authorized \$2,215,756 on 13 separate property losses. The smallest loss was \$3,727 and the largest was \$1,500,000 for a fire at the Iowa State University Power Plant. In fiscal year 1980, the Council paid \$656,606 on 16 separate

property losses. The smallest loss was \$1,803 and the largest was \$248,000 for storm damage at Iowa State University. So far in fiscal year 1981, \$352,901 has been paid on 7 losses the largest being \$238,800 for storm damage at Iowa State.

All of these losses are well within the state's tolerable retention level. However, what happens if the University of Iowa Library burns to the ground or the Iowa State University power plant explodes or a tornado rips through the Captiol Complex. In some cases there may be some Federal Disaster Assistance available but the state will still have to pay a large amount of money,

As stated previously, the universities buy insurance on their auxilliary enterprises. They are currently covering about \$540,000,000 in property at a \$370,000 per year premium.

In checking with excess insurance markets, the state could insure \$3 billion worth of property with a \$125 million loss limit per occurrence with a \$1 million per occurrence deductible for about \$850,000 per year.

The state should cancel all their primary insurance coverage, including coverage at the universities and provide coverage up to \$1 million per occurrence through the proposed self-insurance fund. Then they should purchase the excess insurance coverage to protect against the catastrophe. Any revenue bond requirement for property insurance could be altered so that the insurance requirement can be met with a recognized self-insurance and catastrophe insurance program.

This approach will protect the state from the financial nightmare of a multi-million dollar property loss at a minimal cost to the taxpayers.

#### D. Recommendations

34. Contract to survey all state buildings, determine replacement cost, put information on the computer, and update it at least annually.
35. Cancel all primary property insurance and self-insure property losses up to the state's tolerable loss retention level.
36. Purchase excess property insurance on all state property.

#### VII. WATERCRAFT AND SNOWMOBILE RISKS

##### A. Exposures to Loss

The only state agency that has a significant number of watercraft and snowmobiles is the Conservation Commission. They own 422 non-motor boats ranging in length from 8ft. to 68 ft. with 417 of them in the 8 to 18 ft. range. Total value of these boats is about \$170,000. They have 75 canoes that are 13 to 17 ft. and valued at about \$22,000. They also own about 60 inboard and outboard motor boats of varying lengths and horsepower with a total value of about \$175,000.

In addition to the watercraft, they own about 45 snowmobiles totaling about \$55,000 in value.

From a property standpoint, losses to watercraft and snowmobiles is well within the tolerable retention level of the state. In the liability area, state negligence in a boating accident killing several people might cause a loss in the \$5 to \$10 million area.

##### B. Present Funding

Currently, the state totally self-insures the watercraft and snowmobile exposures. Property losses are usually just absorbed in the operating budget. Any liability loss is referred to the State Appeal Board for adjustment.

##### C. Discussion

Generally, the state's watercraft and snowmobile exposures are well within the state's tolerable retention level. These losses should be covered by the proposed self-insurance fund. The potential liability losses in this area should be included in the proposed catastrophe insurance coverage.

##### D. Recommendation

37. Continue to self-insure watercraft and snowmobile risks and include these exposures in the overall catastrophe insurance program.

## VIII. GENERAL LIABILITY RISKS

### A. Exposure to Loss

By far the most complex area of risk identification and evaluation is the area of liability risks. The following information will briefly describe the major areas of potential liability losses that face the State of Iowa.

#### 1. Sovereign Immunity

As an entity immune from legal action, the state enjoyed a unique position in the past. With the passage of Chapter 25A of the Code, "State Tort Claims Act", the state's position in its day-to-day activities is much like other kinds of businesses operating in the state. The state now, in the eyes of the law, is in no different position as respects its liability to members of the public than any other entity within the state.

Part of Sec. 25A.4 says, ". . . the state shall be liable in respect to such claims to the same claimants, in the same manner, and to the same extent as a private individual under like circumstances, except that the state shall not be liable for interest prior to judgement or for punitive damages . . ." The immunity of the state from suit and liability is waived to the extent provided in this chapter.

Also, the state will defend and indemnify all employees involved in Tort Claims. Sec. 25A.21 says, "The state shall defend and, except in cases of malfeasance in office or willful and wanton conduct, shall indemnify and hold-harmless any employee of the state against any claim as defined in Section 25A.2 . . . including claims arising under the Constitution, statutes, or rules of the United States or of any state."

There are certain types of claims for which the state retains its sovereign immunity. These exceptions are listed in Section 25A.14 and are the following:

1. Any claim based upon an act or omission of an employee of the state, exercising due care, in the execution of a statute or regulation, whether or not such statute or regulation be valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a state agency or an employee of the state, whether or not the discretion be abused.

2. Any claim arising in respect to the assessment or collection of any tax or fee, or the detention of any goods or merchandise by any law enforcement officer.

3. Any claim for damages caused by the imposition or establishment of a quarantine by the state, whether such quarantine relates to persons or property.

4. Any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights.

5. Any claim by an employee of the state which is covered by the Iowa Worker's Compensation Law or the Iowa occupational disease law.

6. Any claim by an inmate as defined in section 85.59.

7. A claim based upon damage to or loss or destruction of private property both real and personal, or personal injury or death, when the damage, loss, destruction, injury or death occurred as an incident to the training, operation, or maintenance of the national guard while not in "active state service" as defined in section 29A.1, subsection 5.

Thus, except for the claims mentioned above, the state and its employees can be successfully sued for an unlimited amount of money.

## 2. Premises and Operations

As a property owner and operator of public buildings, there are large exposures to liability particularly when considering the scope of the various activities such as the operation of parks, prisons, medical facilities, schools and universities. The maintenance of property in a reasonably safe condition is most important. The wrongful death or serious injury of one or two people may be within the state's tolerable retention level. However, the state's

negligence causing a fire or explosion in a public building or institution that kills or injures several hundred people, could bring losses in excess of \$100 million. For example, a \$40 million lawsuit has recently been filed in connection with the Younker's Fire in 1978, which only killed 10 people.

Another area of potential liability is in the design, construction, and maintenance of state highways. Normally, losses in automobile accidents are paid by the respective insurance companies that insure the vehicles. However, if the loss can be traced to faulty design, construction or maintenance of the roadway, or perhaps improper or missing road signs, the insurance companies will not hesitate to subrogate their loss against the state, and have done so, successfully. One can see that a van or bus accident killing several people and traced to state negligence in maintaining the roadway could cost the state over \$20 million.

The state does sell some products to the general public. The major item, of course, is liquor, but the state only acts as a wholesaler and retailer. Prison Industries in the Department of Social Services, sells a variety of products from soap to furniture. While none of these products are considered dangerous to the public, there is always the potential of a products liability suit. The potential loss per occurrence is difficult to estimate, but probably would not exceed \$5 million.

## 3. Professional Liability

Unlike many other organizations, the state is faced with several liability exposures generally characterized as "professional," or errors and omissions, malpractice, etc. These are liability exposures generally associated with specific professional activities such as the practice of law, medicine, research, broadcasting, etc.

The state operates a major medical center at the University of Iowa. In addition, the Department of Social Services operates 5 psychiatric hospitals, 2 hospital-schools for the mentally retarded and a hospital/nursing care facility for veterans.

The operation of all of these creates a substantial exposure to professional liability losses. These losses can arise through errors in medication, accidents which take place in surgery, incorrect diagnosis, and other causes.

The most serious loss potential as a result of a hospital operation is a possibility of fire with a large loss of life and which is contributed to or caused by negligence of the hospital. The potential loss depends on the number of people involved but could exceed \$100 million. The probable maximum loss potential due to medical malpractice exposure, based on losses which have occurred throughout the country, is in the range of \$1 to \$2 million, but a maximum potential loss probably would not exceed \$5 million.

In addition to medical malpractice, the state is faced with other professional liability exposures such as legal, counseling, broadcasting, inspection services, etc. Any time an individual organization provides advice, counsel or recommendations to others, a potential professional liability exposure is incurred. Medical malpractice is more visible because of frequency, but the other professional liability exposures represent equally high potential if measured in severity rather than frequency.

#### Public Officials

Public officials may be held responsible for the following types of professional liability acts:

1. Release of someone on probation who does harm to himself or others.
2. Failure to attend committee meetings.
3. Actions beyond the powers of office.
4. Silence with respect to the improper conduct of fellow officials.

5. Incurrence of unnecessary expenses.
6. Failure to disclose important information to the public or other officials.
7. Failure to examine documents signed.
8. Failure to supervise employees properly in their duties.
9. Failure to detect crime.
10. Permitting the misuse of inside information.
11. Permitting unauthorized payments.
12. Improper rejections of bids or offers.
13. Failure to take advantage of legitimate financial opportunities for the state.

In the Scheur vs. Rhodes Case of 1974, the U.S. Supreme Court found that public officials can be held liable for errors in judgment. This case arose out of the Kent State University shootings and the actions of the National Guard. Up until then, the concept of governmental immunity essentially protected public officials from lawsuits as long as they were acting in an official capacity. As noted before, Iowa has statutorily retained immunity in some areas of liability. As a result of this immunity (which, some feel, may affect only state law, as opposed to federal law), plaintiff's attorneys have increasingly brought claims against public entities under Section 1983 of Title 42 of the United States Code; this is a codification of the 1871 Civil Rights Act which provides that:

"...Every person who, under color of any statute, ordinance, regulation, custom, or usage of any state or territory, subjects or causes to be subjected any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities procured by the Constitution

and laws shall be liable to the party injured in an action at law, suit in equity or other proper proceeding." (Emphasis added).

It is likely that an increasing number of claims may be brought under the Federal Civil Rights Act; it is also probable, because of language of this act, that many of these claims may have involved professional or errors and omissions type of liability claims.

Under the state's Tort Claim Act, the state is required to defend and in most cases indemnify any state employee in any lawsuit that stems from their actions in an official capacity for the state.

#### 4. Inverse Condemnation

Inverse condemnation is a term referring to liability arising out of damaged property due to an action of the public entity. Such an action may involve only elements of loss impairment of value to property without physical injury as well as traditional injury to or destruction of property. For example, if the state constructs a building which results in a certain parcel of property becoming inaccessible, the potential loss of property value to the owner may give rise to a right of action against the state. Of course, this is precluded when the state condemns the property in advance or takes it over in exercise of eminent domain.

It is important to note that a claimant filing an inverse condemnation act against the state need not prove negligence—he need only prove damage. The potential magnitude of this type of risk is almost unlimited. Because the plaintiff's attorney is not required to prove negligence, an increasing number of claims are brought against public entities based on a doctrine of inverse condemnation rather than negligence in spite of the fact that the state or its contractor may have been negligent. The plaintiff's attorney's task is, therefore, made easier.

The 1965 California Supreme Court decision against the County of Los Angeles in the Portuguese Bend Case illustrates this point. In this case, the county and others were sued by private property owners for slide damage to their property from county road construction. Damages were in the millions. The court stated that the county was not negligent but was liable on the principle of inverse condemnation and announced the following reasons:

1. The property owners suffered direct physical damage to their property as approximate result of road work deliberately planned and carried out.
2. The damage to private property, if reasonably foreseen, would have entitled the property owners to compensation.
3. The likelihood of public works not being engaged in because of unforeseeable direct physical damage to real property is remote.
4. The cost of such damage can better be absorbed with less hardship by the taxpayers as a whole, rather than by the owners of individual parcels damaged.
5. The owners of the damaged property, if not compensated, would contribute more than their proper share to the public undertaking.

Insurance protection against inverse condemnation is either unavailable or available in small, limited amounts. Therefore, since it is virtually impossible to transfer this risk to a professional insurance carrier, the major emphasis of risk treatment should be placed on loss control, that is, eliminating or reducing the chance of risk. The reasons cited above by the California Supreme Court should provide some insight into the control of risk. Some public entities have requested legal counsel review of all actions that may possibly lead to an inverse condemnation action prior to a final decision by the pertinent governing agency. These procedures may be likened to an "environmental



impact study." The key question is: Can the chance of damage to private property be reasonable foreseen?

#### 5. Personal Injury

Personal injury losses arise from injuries of a non-medical nature. These may be an injury to a person's reputation, character, or feelings, include the following torts or wrongful acts:

1. False arrest, detention or imprisonment, or malicious prosecution;
2. Libel, slander, deformation of character or violation of the right of privacy;
3. Wrongful entry or eviction or other invasion of the right of private occupancy.

The state is obviously exposed to claims arising out of law enforcement activities involving campus police--Conservation Officers, and Department of Public Safety Officers. Exposures include:

1. Excessive force
2. False arrest and imprisonment
3. Injury to third parties - failure to act
4. Assault and battery
5. Off-duty police
6. Search and seizure
7. Street encounters

In addition, the state could be sued for claims based upon racial, religious, age or sex discrimination.

While the state retains immunity in some of these areas, the law is not very specific on the immunity. This would allow for at least a challenge of their immunity in the courts and its always possible that a court will overturn the specific immunity, or as cited earlier, suit may be brought under the

Federal Civil Rights Act.

The state operates a major maximum security penitentiary at Ft. Madison as well as several minimum and medium security prisons. Some of these prison facilities are currently overcrowded. This is particularly important in light of recent decisions such as that of an order by a U.S. District Judge in Arizona to reduce the inmate population in the Arizona State Prison. The charge of crowded conditions was considered "cruel and unusual punishment." The operation of the penal institutions may give rise to liability claims arising out of several areas:

1. Inadequate medical attention.
  2. Security for prisoners
  3. Escapes
  4. Prisoner injuries
  5. Parolee equal protection rights
  6. Prisoner rights
  7. Prisoner suicides
  8. Injuries inflicted by other inmates
- #### 6. Pollution

The state is exposed to potential claims arising out of pollution, such as the use of hazardous substances in many locations across a university campus for teaching and research. Hazardous wastes pose unique and complex problems for the state.

Transportation of a hazardous substance to a disposal site also allows for exposures to other vehicles and persons on public highways.

At a disposal site, the state is exposed to the problem of excessive contamination of air, water or ground. The disposal site also represents a hazard to employees, visitors or trespassers.

Also, there are exposures of biological waste from a university teaching and research hospital, possible contamination or damage to a sewer system or the possibility of cross contamination in a hospital setting through linen services, housekeeping services, etc.

#### 7. National Guard

The National Guard occupies a unique status in the federal system. On the one hand, it functions as a state military force and supplements civil authorities in time of emergencies. On the other hand, it serves as a statutory component of the federal defense establishment. The constitutional provisions relating to the militia forces established a division of mutually exclusive powers. As a result of this dual status, a member of the National Guard may occupy three distinct legal roles. First, he is a member of his state's organized militia. Second, he is a member of the "federally recognized" National Guard under federal law. Finally, he is a reserve of the Army or the Air Force, under the Armed Forces Reserve Act of 1952. In addition, the President has authority to "federalize" the militia if a state requests such assistance to control insurrection or domestic violence.

The dual nature of the Guard has placed the individual Guardsman in a difficult situation in regard to liability. Unless his unit has been federalized, he is not considered a federal employee and, therefore, does not come under the jurisdiction of the Federal Tort Claims Act. However, if a state, through its National Guard, has committed a Tort for which the state has made no compensatory provision, there is an administrative remedy available to the claimant if the Guardsman committing the tort was on a federally funded training exercise. This remedy of the National Guard Claims Act is only

available when the state has failed to provide such remedy. This Act is also available when the state remedy does not fully compensate the claimant. The balance of the claim may be received under the federal provisions.

There is nothing to prohibit a claimant from disregarding available administrative remedies and proceeding directly through the judicial process. Indeed, if the claim arises from wholly state activity in a state asserting sovereign immunity, the claimant has no alternative but to invoke the judicial process against the individual Guardsman.

Case law and statute law vary from state to state as to the extent to which National Guardsmen may exercise the powers of peace officers when under the civil law. Cases concerning peace officer powers of Guardsmen fall into two groups. First, those holding a Guardsman has peace officers status but no further power. Second, those which permit the Guard more power than peace officers. Cases in the second group permit more latitude because of the concepts of action necessary in emergencies.

The recent revitalization of the Civil Rights Act as discussed previously has added a new dimension to the liability of the National Guard. The Guard during most of its activities is a state entity so that Guardsmen would come within the purview of the Act. Furthermore, under the supremacy clause of the U.S. Constitution, the Civil Rights Act would transcend any immunity for which the state might have granted the Guard.

The exposure of Guardsman to personal liability for actions in the line of duty has troubled those involved for some time. The adverse effects of such liability arise not only from Guard activities in times of emergency and civil disturbance, but also accidents and injuries resulting

from routine training sessions and operations. In states without tort claims acts which include Guardsmen in their coverage, a state funded insurance program has been suggested as the most readily available method of protecting guardsmen from the harsh effect of personal liability. Such coverage is particularly important for the enlisted man who rarely, if ever, can come within the discretionary exception to liability, (provided in the Iowa Tort Claims Act) and, therefore, must follow potentially illegal superior orders at their own peril.

#### 8. Contractual Liability

The state regularly enters into contracts with vendors, contractors and service organizations. This activity creates a loss exposure wherein the state may assume the liability that normally belongs to the other party of the contract. This contractual assumption is ordinarily voluntary. However, in some cases it may be the accidental result of an improperly prepared contract or result from the lack of instruction to the person entering into the contract.

The subject of contract review is more fully discussed in the Risk Management Administration section of this report.

#### 9. Nuclear Liability

Hospitals, research labs and medical professionals using radioactive substances in small amounts create the exposure of damage or destruction of property by contamination or radiation. The University of Iowa hospital has this exposure and also Iowa State University operates a small nuclear reactor for classroom laboratory work.

#### B. Present Funding

Currently, the vast majority of general liability exposures are self-insured. Chapter 25A, State Tort Claims Act, authorizes the State Appeal Board to

"...consider, ascertain, adjust, compromise, settle, determine and allow any claim as defined in this Chapter." If the Appeal Board rejects the claim or fails to act on it within 6 months, the claimant can then file suit against the state. General claims or judgements paid under this section come out of the general fund, while highway claims are paid from the road use fund.

The state does purchase about 14 different liability insurance policies to cover various exposures. The total premiums for these policies is \$930,026 per year. (See Appendix A).

All of these policies are primary insurance coverage and most of them have limits not exceeding \$1 million annual aggregate. A few policies have limits up to \$5 million annual aggregate.

By far, the largest policy is a medical malpractice policy covering approximately 400 doctors and 60 paramedical people at the University of Iowa. It is a "claims made" policy and each doctor listed on the policy is covered for \$1 million per occurrence and \$1 million annual aggregate. The annual premium is \$880,532. These doctors are members of the Iowa Medical Service Plan which is a University fund created from doctor's fees for services rendered to patients. The fund basically pays the bills for running the University's hospital operation. Hospital professional liability is not insured.

Any judgement that exceeds the limits of any of the insurance policies would have to be funded out of the general fund or the road use fund.

#### C. Discussion

In the liability area, as in other areas, the state has chosen to buy some primary insurance and self-insure most of the exposure. Again, there is no provision to handle the catastrophe loss. The state needs to self-insure all general liability losses within their tolerable retention level and only purchase excess insurance, with limits up to \$75 to \$100 million.

In reviewing past losses paid by the Appeal Board, from calendar year 1976 to 1980, the state paid a total of \$6,988,666 broken down as follows:

1976 - Total - 145 claims paid  
Total dollar amount - \$3,024,672  
Largest Loss - \$835,572  
Smallest Loss - \$14.00  
Average Claim - \$20,860

1977 - Total - 146 claims paid  
Total dollar amt. - \$1,071,883  
Largest Loss - \$592,876  
Smallest Loss - \$7.00  
Average Claim - \$7,342.00

1978 - Total - 126 claims paid  
Total dollar amt. - \$597,279  
Largest Loss - \$62,500  
Smallest Loss - \$10.00  
Average Claim - \$4,740

1979 - Total - 149 claims paid  
Total dollar amt. - \$939,706  
Largest loss - \$250,000  
Smallest Loss - \$5.00  
Average Claim - \$6,307

1980 - Total - 173 claims paid  
Total dollar amt. - \$1,355,126  
Largest loss - \$466,000  
Smallest Loss - \$5.00  
Average Claim - \$7,833

In addition to this, in the current calendar year, the state had a judgement against it of about \$950,000 for medical malpractice at Glenwood Hospital. The Attorney General is currently appealing that judgement. Also, as of July 1, 1980, unsettled tort liability lawsuits against the state totaled over \$60,000,000.

All losses in the past 5 years have been relatively small and would fall within the state's per occurrence tolerable loss level. These losses should be self-insured as they have been. However, the state has been extremely lucky and has not had a multiple wrongful death or injury judgement against it.

The state needs to stop purchasing primary insurance in the areas of auto, aircraft and all general liability exposures. This would save about \$1,630,000 a year in primary insurance premiums. A self-insurance fund can pay the losses up to a certain retention level, then the state should purchase a catastrophe liability policy.

To self-insure all of these losses, the state needs to contract with a service firm to provide adequate handling of the claims and replace some services now provided by insurance companies.

With the passage of the Tort Claims Act, there was considerable discussion whether the University of Iowa still needed a medical malpractice policy on the doctors of the Medical Service Plan. Since the doctors are all state employees, they would be covered for professional liability under the Tort Claims Act.

The University of Iowa decided to continue with the insurance coverage, rather than self-insure through Tort Claims, for three basic reasons.

1. The insurance policy covers the doctors away from work and even out-of state if they needed to perform in an emergency. The Tort Claims Act would only cover them while acting within the scope

of their duties as state employees.

2. The University was concerned about the expertise of the Attorney General's Office and the State Appeal Board in handling delicate medical malpractice claims.
3. If a doctor would leave the employment of the state, it would be difficult for him/her to secure medical malpractice insurance if they had not carried it in the past.

A properly structured self-insurance fund, as has been proposed, with proper excess insurance could answer the universities problems with the Tort Claims Act in this area.

1. The self-insurance fund can be structured to cover the doctors away from their work.
2. The Tort Claims Act can be amended to allow the state to contract with expert adjusters and attorneys for medical malpractice claims.
3. Normally, a formalized self-insurance fund with proper excess insurance will be looked upon as having had medical malpractice insurance for any doctor who leaves employment of the state.
4. A self-insurance fund can give the doctor's higher limits of liability than \$1 million at a considerable savings in cost.
5. The self-insurance fund could write coverage on a "claims made" basis and the fund could also assume the "tail" of claims that occurred before the fund took over coverage.

#### D. Recommendations

38. Cancel all primary liability insurance coverage, self-insure this exposure to a tolerable loss retention level, and purchase catastrophe liability insurance coverage.
39. Amend the Tort Claims Act to allow the state to contract for liability

claim adjusting services.

40. Structure the self-insurance fund and excess insurance to specifically cover the doctor's medical malpractice exposure at the University of Iowa Hospital and cancel their current insurance coverage.

APPENDIX A  
SCHEDULE OF THE STATE'S ANNUAL INSURANCE PREMIUMS

State Annual Insurance Premiums

<u>Automobile Insurance</u>	<u>Annual Premiums</u>
Dept. of Transportation)	
Vehicle Dispatcher     )	Liability Only     \$550,000
Fair Board             )	
Regents Institutions - Liability and Physical Damage	
University of Iowa	70,106
Iowa State University	36,700
University of Northern Iowa	19,123
Iowa School for the Deaf	2,793
Braille and Sight Saving School	<u>1,491</u>
<u>Total Auto Insurance</u>	<u>\$680,213</u>
<u>Aircraft Insurance - Liability and Physical Damage</u>	
Dept. of Public Safety (7 aircraft)	2,870
Iowa State University (8 aircraft)	13,004
Dept. of Transportation (4 aircraft)	9,428
Attorney General (1 aircraft)	<u>300</u>
<u>Total Aircraft Insurance</u>	<u>\$25,602</u>
<u>Property and Time Element Insurance</u>	
University of Iowa (Insures 30% of their property)	\$164,312
Iowa State University (Insures 23% of their property)	116,077
University of Northern Iowa (Insures 20% of their property)	88,985
D.O.T. Toll Bridge	\$12,681
Job Service - Building and Contents	6,316

	<u>Annual Premium</u>
IPBN Leased Equipment	\$ 750
Arts Council—Loaned Art Objects	600
<u>Total Property Insurance</u>	<u>\$389,721</u>
<u>Liability Insurance</u>	
<u>General</u>	
Job Service - Main Building and Leased Space	4,958
	673
D.O.T. Leased Space	12,000
Railroad Protective	10,577
Toll Bridge	2,925
IPBN Premises and Operations	
<u>Professional</u>	
University of Iowa	880,532
Medical Malpractice	9,375
Dental Malpractice	880
IPBN Broadcasters	1,702
Director and Officers	
<u>Nuclear</u>	1,500
Iowa State University	
<u>Umbrella</u>	2,550
IPBN	
<u>Liquor</u>	910
University of Iowa	820
Iowa State University	554
University of Northern Iowa	
<u>Total Liability Insurance</u>	<u>\$929,956</u>

	<u>Annual Premiums</u>
<u>Fidelity Bonds and Theft Insurance</u>	
State Employees - Blanket and Individual Bonds	\$11,660
National Guard - Return of Property Bonds	1,956
University of Iowa - 3-D Policy	5,542
Univ. of Northern Iowa - 3-D Policy	5,000
Iowa State University - Blanket and Individual bonds	3,305
Iowa School for the Deaf - Bond	200
Iowa Braille and Sight Saving School - Bond	200
<u>Total Bond and Theft Insurance</u>	<u>\$27,863</u>
<u>TOTAL STATE ANNUAL INSURANCE PREMIUMS</u>	<u>\$2,053,355</u>



APPENDIX B  
STATE'S UNINSURED LOSSES--FISCAL 79 AND 80

State's Uninsured Losses

1. Tort Claims - Liability

Appeal Board Settlements and Lawsuits

1978 \$ 597,279

1979 939,706

Pending lawsuits against the

state (as of 7-1-80)

\$ 60,729,552

2. Worker's Compensation Losses - Paid by Comptroller

State Fiscal 79: Paid \$ 1,159,970

D.O.T. Fiscal 79: Paid \$ 238,758

TOTAL FISCAL 79

\$ 1,398,728

State Fiscal 80: Paid \$ 1,337,149

D.O.T. Fiscal 80: Paid \$ 291,620

TOTAL FISCAL 80: Paid

\$ 1,628,769

3. Property Losses

Fiscal 79:

Executive Council

\$ 2,215,756

D.O.T.

100,000\*

Auto Physical Damage

205,000

Small Unreported Losses

100,000\*

\$ 2,620,756

Fiscal 80:

Executive Council

\$ 656,606

D.O.T.

100,000\*

Auto Physical Damage

200,000

Small Unreported Losses		<u>\$ 100,000*</u>
		\$ 1,056,606
TOTAL UNINSURED LOSSES:		
	1979	\$ 4,616,763
	1980	\$ 3,625,081
	Last 2 Yr. Average	<u>\$ 4,120,922</u>
Pending Lawsuits		<u>\$ 60,729,552</u>

\*Estimated

# APPENDIX C FUNCTIONAL RESPONSIBILITIES OF FULL-TIME RISK MANAGERS

In 1977, a study was done by Sibson and Company, Inc. for the Risk and Insurance Management Society (RIMS). The State of Iowa is now a member of RIMS. The survey covered 852 members of RIMS of which 597 members were full-time Risk Managers for their organizations.

One thing the study showed was that of 597 full-time Risk Managers, 245 or 41% were responsible for both property and Casualty and Employee Benefits administration. 326 or 54.6% were responsible for Property, Casualty and Liability Coverage only.

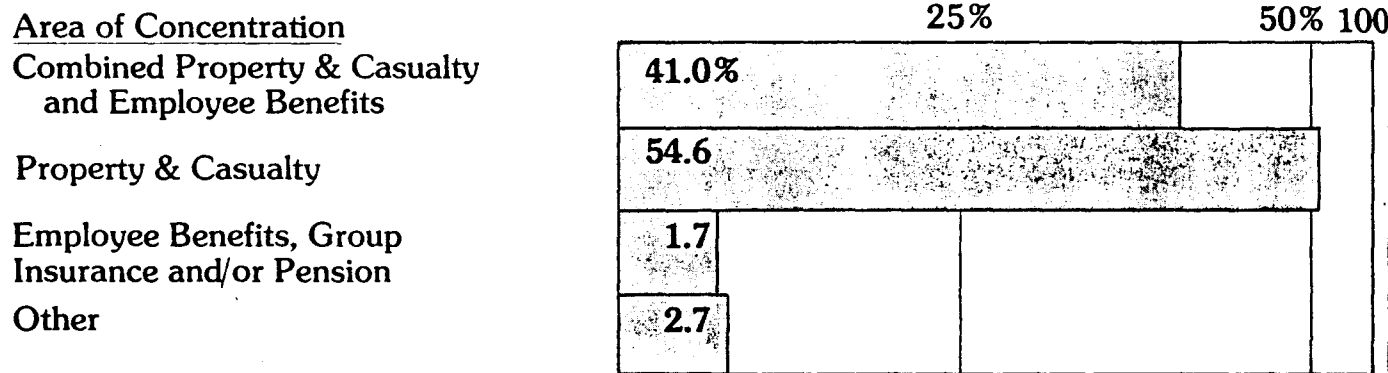
Another result of the study was that 74.3% of full-time Risk Managers had 50% or more responsibility for claims administration.

Finally, the study showed that 99% of full-time Risk Managers handled Worker's Compensation claims whether or not they had any responsibility for employee benefits.

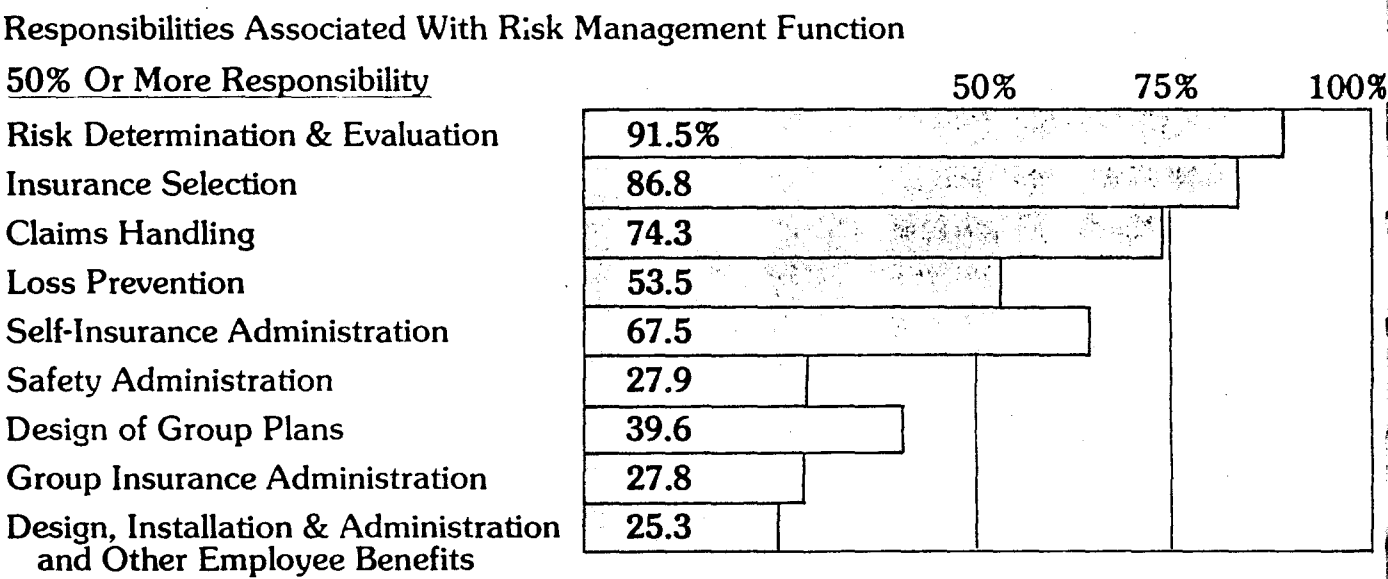
Attached are copies of charts taken from the study that shows the above results.

# What are the functional responsibilities of full-time risk managers?

One of the more interesting findings is the increase of employee benefits responsibility over and above the property and casualty area. A large number of risk managers are now responsible for employee benefits programs.



To further clarify the above, the following chart breaks down the individual responsibilities to which risk managers devote at least 50% of their time.



Analysis of the data indicates that the majority of full-time risk managers have responsibility for property and casualty areas. In addition, a large number of respondents have the additional responsibility of employee benefits. Only a small proportion of the membership have responsibility for only employee benefits or some other area of concentration. The distribution of full-time risk managers within RIMS, with respect to their area of concentration, is shown in Exhibit I-2.

EXHIBIT I-2				
AREA OF CONCENTRATION - FULL-TIME RISK MANAGERS				
AREA OF CONCENTRATION	UNITED STATES		CANADA	
	Number	Percent	Number	Percent
Property, Casualty & Liability Coverage	326	54.6%	34	75.5%
Employee Benefits, Group Insurance and/or Pension	10	1.7	1	2.2
Combined P&C and Employee Benefits	245	41.0	10	22.2
Other	16	2.7	0	0.0
TOTAL	597	100.0%	45	100.0%

SCOPE OF RESPONSIBILITY AND DEGREE OF AUTHORITY ASSOCIATED WITH  
FULL-TIME RISK MANAGERS IN THE PROPERTY AND CASUALTY AREA OF CONCENTRATION

EXHIBIT III-9				
RIMS MEMBERSHIP PROFILE BY RESPONSIBILITIES ASSOCIATED WITH RISK MANAGEMENT				
50% OR MORE RESPONSIBILITY	UNITED STATES		CANADA	
	Number	Percent	Number	Percent
Risk Determination & Evaluation	764	91.5%	73	90.1%
Insurance Selection	725	86.8	65	80.2
Claims Handling	620	74.3	66	81.5
Loss Prevention	447	53.5	42	51.9
Self-Insurance Administration	564	67.5	55	67.9
Safety Administration	233	27.9	9	11.1
Design of Group Plans	331	39.6	15	18.5
Group Insurance Administration	232	27.8	17	21.0
Design, Installation & Administration and Other Employee Benefits	211	25.3	15	18.5
BASE =	835		81	

AREA OF RESPONSIBILITY	PERCENT WITH RESPONSIBILITY (1)	PERCENT HAVING DEGREE OF AUTHORITY		
		Advisory	Shared	Full
• <u>Risk Determination and Evaluation:</u> (Identifying potential loss exposure and the size of the potential loss).	100%	1%	12%	87%
• <u>Risk Financing:</u>				
- <u>Full:</u> (Determining deductible levels/limits, whether to insure or self-insure, including captive considerations, and placing or marketing insurance coverage).	88	1	29	58
- <u>Limited:</u> (Determining deductible levels/limits and placing or marketing insurance coverage).	8	1	4	3
- <u>Restricted:</u> (Placing or marketing insurance coverage only).	4	1	0	3
• <u>Loss Prevention Engineering:</u> (Designing Mechanical Systems and procedures to prevent or minimize loss of property or assets).	96	27	35	34
• <u>Security:</u> (Administering security personnel and/or advising on security procedures to prevent or minimize loss of property or assets).	85	58	18	9
• <u>Safety Administration:</u> (Designing and/or administering systems and procedures to prevent or minimize loss from employee casualties, including review of OSHA compliance).	69	33	2	34
• <u>Claims Handling Administration:</u> (Liaison with insurance company on all claims or administration of self-insured/captive claims handling facilities).				
- Property & Casualty Loss (Not including Worker's Compensation).	100	2	11	87
- Worker's Compensation Claims	99	11	21	67
- Product Liability Claims	97	6	20	71
- Group Life/Medical/Disability Insurance Claims	16	10	6	0
- Pension/Retirement Income Payments	6	6	0	0
• <u>Employee Benefit Plan Administration</u>				
- Group Insurance Plan Design and/or Administration.	25	19	6	0
- Other Employee Benefits Design and Administration.	25	19	4	2
• <u>Administration of Insurance/Unit Program</u>				
- Insurance Accounting (premium allocation loss statistics and other recordkeeping functions).	99	2	10	87
- Unit/Department Budgeting	98	1	8	89
- Management of Unit/Department Personnel (if more than two in the unit).	92	0	4	88

SCOPE OF RESPONSIBILITY AND DEGREE OF AUTHORITY ASSOCIATED WITH  
FULL-TIME RISK MANAGERS IN THE P&C AND BENEFITS AREA OF CONCENTRATION

AREA OF RESPONSIBILITY	PERCENT WITH RESPONSIBILITY (1)	PERCENT HAVING DEGREE OF AUTHORITY		
		Advisory	Shared	Full
• <u>Risk Determination and Evaluation:</u> (Identifying potential loss exposure and the size of the potential loss).	100%	1%	7%	92%
• <u>Risk Financing:</u>				
- <u>Full:</u> (Determining deductible levels/limits, whether to insure or self-insure, including captive considerations, and placing or marketing insurance coverage).	75	3	21	51
- <u>Limited:</u> (Determining deductible levels/limits and placing or marketing insurance coverage).	13	1	4	8
- <u>Restricted:</u> (Placing or marketing insurance coverage only).	12	2	3	7
• <u>Loss Prevention Engineering:</u> (Designing Mechanical Systems and procedures to prevent or minimize loss of property or assets).	92	40	26	26
• <u>Security:</u> (Administering security personnel and/or advising on security procedures to prevent or minimize loss of property or assets).	82	47	26	9
• <u>Safety Administration:</u> (Designing and/or administering systems and procedures to prevent or minimize loss from employee casualties, including review of OSHA compliance).	88	26	27	35
• <u>Claims Handling Administration:</u> (Liaison with insurance company on all claims or administration of self-insured/captive claims handling facilities).				
- Property & Casualty Loss (Not including Worker's Compensation).	99	0	9	90
- Worker's Compensation Claims	99	6	21	72
- Product Liability Claims	97	1	19	77
- Group Life/Medical/Disability Insurance Claims	91	13	14	64
- Pension/Retirement Income Payments	63	18	11	34
• <u>Employee Benefit Plan Administration</u>				
- Group Insurance Plan Design and/or Administration.	98	10	28	60
- Other Employee Benefits Design and Administration.	89	13	31	45
• <u>Administration of Insurance/Unit Program</u>				
- Insurance Accounting (premium allocation loss statistics and other recordkeeping functions).	100	3	17	80
- Unit/Department Budgeting	96	7	14	75
- Management of Unit/Department Personnel (if more than two in the unit).	97	2	5	90

APPENDIX D  
PROPOSED LEGISLATION

PROPOSED HOUSE/SENATE FILE \_\_\_\_\_

BY (PREFILED DEPARTMENT OF  
GENERAL SERVICES BILL)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to the management of losses and loss exposures  
2 of state government, and establishing a state self-insurance  
3 fund for certain losses, charging the state risk manager  
4 with the duty to administer laws that provide for the pay-  
5 ment of certain claims against state government, authorizing  
6 the use of blanket bonds and self-insurance in lieu of  
7 fidelity bonds for state officers and employees, and pro-  
8 viding delayed effective dates.  
9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Chapter 18, division VI, Code 1981, is amended  
2 by adding the following new section:

3 NEW SECTION. STATE SELF-INSURANCE FUND.

4 1. There is created a special fund, to be maintained  
5 separately from other state moneys, to be immune from any  
6 reduction by means of a transfer of funds under section 8.39  
7 and to be known as the Iowa Property and Liability Self-  
8 Insurance Fund. This fund may be referred to as the "state  
9 self-insurance fund". The fund shall consist of all moneys  
10 appropriated to it by the general assembly, together with  
11 interest or earnings from investment, and income from  
12 operations involving the fund, including but not limited to  
13 money recovered through subrogation or salvage, and any revenue  
14 from assessments against state agencies for coverage by the  
15 fund.

16 2. The state self-insurance fund shall be administered  
17 by the risk management division, and shall be used exclusively  
18 for the following purposes:

19 a. To pay all property, liability, and workers compensation  
20 claims referred to in section 2, subsection 1 of this Act  
21 that are approved by the division.

22 b. To finance contracts with service firms for the  
23 adjustment of claims, or to pay the salary and expenses of  
24 full-time claims adjustors.

25 c. To finance contracts with insurance agencies, brokers,  
26 or consulting firms for risk management services, insurance  
27 coverage, surety bond coverage, or any combination of these.

28 d. To pay premiums for insurance coverage and fidelity  
29 bonds.

30 e. To finance contracts with attorneys or law firms on  
31 an hourly basis to defend claims under chapter 25A against  
32 the state or against employees of the state acting within  
33 the scope of their duties in those cases not handled by the  
34 attorney general.

35 3. The treasurer of state is custodian and trustee of

1 the state self-insurance fund and shall administer the fund  
2 in accordance with the directions of the division. The  
3 treasurer of state shall invest those portions of the fund  
4 which in the judgment of the division are not needed for the  
5 payment of current expenses or obligations. Investments shall  
6 be made in relatively liquid assets to facilitate claim  
7 payments.

8 4. The division shall issue a report each January to the  
9 general assembly on the financial condition of the self-  
10 insurance fund. The report shall encompass the fiscal year  
11 most recently completed and shall include the following:

- 12 a. The beginning balance of the fund.
- 13 b. The annual appropriation to the fund.
- 14 c. The investment income generated by the fund.
- 15 d. Other income of the fund, according to type.
- 16 e. The amount of losses paid by the fund.
- 17 f. The amount of reserves set up for losses incurred,  
18 but not yet paid.
- 19 g. The amount of the premiums paid for insurance coverage  
20 and fidelity bonds.
- 21 h. An itemized statement of the amount of administrative  
22 expense incurred.
- 23 i. The closing balance of the fund.

24 5. All losses paid by the state self-insurance fund may  
25 be subject to a deductible to be charged back to the  
26 appropriate board, commission, or other governmental agency.  
27 For a liability loss, any deductible shall be charged to the  
28 agency responsible for the loss; for a property loss, any  
29 deductible shall be charged to the agency that owns the state  
30 property; and for workers compensation loss, any deductible  
31 shall be charged to the agency that employs the claimant.  
32 The amount of the deductible shall be determined by the  
33 division.

34 6. The risk manager may commence civil actions in the  
35 name of the state as necessary to recover amounts due the

1 state as a result of the following:

2 a. Breach of fidelity or performance bonds by state  
3 officers and employees.

4 b. Liability for damage to or destruction or theft of  
5 state property.

6 c. Enforcement of any other rights of or claims accruing  
7 to the state as a result of or in connection with loss or  
8 loss exposures referred to in section 2, subsection 1 of this  
9 Act.

10 All amounts recovered in civil actions brought by the risk  
11 manager shall be deposited in the state self-insurance fund.

12 7. Payment from the state self-insurance fund of a claim  
13 brought by or against a board, commission, or other agency  
14 of state government shall be conditioned upon the execution  
15 by the agency of an assignment or transfer to the risk manager  
16 of civil claims, property rights in salvage, and other rights  
17 of the agency that may exist with respect to the property  
18 or claim for which payment is made. Amounts recovered by  
19 the risk manager as a result of an assignment or transfer  
20 of rights or claims shall be deposited in the state self-  
21 insurance fund.

22 8. All self-insurance fund transactions are subject to  
23 audit by the auditor of state.

24 9. It is the intent of the general assembly that the state  
25 self-insurance fund shall be established with an initial  
26 appropriation of seven million dollars, and increased annually  
27 by a like amount until a level equal to the lesser of twenty  
28 million dollars or one percent of the annual general fund  
29 budget of the state is reached. Should either chargeable  
30 losses and expenses or increases in the state's budget reduce  
31 the balance of the fund below the lesser of twenty million  
32 dollars or one percent, additional annual appropriations shall  
33 be provided to restore the balance to the specified level.  
34 This section does not appropriate funds.

35 10. It is the intent of the general assembly that this

1 section be prospective only. The state self-insurance fund  
2 shall not be liable for the payment of any claim or expense  
3 until such time as money initially has been appropriated to  
4 the fund. The state self-insurance fund shall not be used  
5 to pay any state property loss occurring prior to the initial  
6 appropriation of money to the fund, and shall not be used  
7 to pay any claim arising under chapter 25A out of an act or  
8 omission occurring prior to the initial appropriation of money  
9 to the fund, and shall not be used to pay any claim for  
10 workers' compensation benefits arising out of an injury or  
11 illness originally occurring prior to the initial appropriation  
12 of money to the fund. The state self-insurance fund shall  
13 not be used to pay any expense arising in connection with  
14 a claim unless the claim is payable from the fund under this  
15 subsection.

16 11. The risk manager shall provide by rule for the payment  
17 to the state self-insurance fund of an annual assessment by  
18 a state board, commission, or agency that has loss exposure  
19 of any of the types referred to in subsection 2, paragraph  
20 arising out of activities that are funded to the extent  
21 of fifty percent or more by revenue sources other than the  
22 state income tax. It is the intent of the general assembly  
23 that the revenue sources for these governmental activities  
24 bear a share of the loss exposures created by the activities  
25 in approximately the same proportion that the amount of nontax  
26 revenue is of the total funding of the respective activity.  
27 The amount of the assessment shall be as determined by the  
28 risk manager. The risk manager may require the payment of  
29 an assessment on a periodic installment basis. An assessment  
30 or installment not paid within thirty days after it becomes  
31 due shall bear interest from the due date at the rate  
32 applicable to delinquent state individual income taxes.

33 Sec. 2. Chapter 18, division VI, Code 1981, is amended  
34 by adding the following new section:

35 NEW SECTION. ADMINISTRATION OF CLAIMS.

1     1. The division, acting on behalf of the state of Iowa,  
2 and with the advice of the attorney general and the executive  
3 council, shall consider, ascertain, adjust, compromise, settle,  
4 determine, and allow the following claims:

5     a. Claims as defined in the state tort claims Act, chapter  
6 25A.

7     b. All claims of boards, commissions, or other agencies  
8 of state government for damage to or destruction or theft  
9 of state-owned property.

10    c. All claims of state employees for benefits pursuant  
11 to chapters 85, 85A, and 86, relating to workers compensation.

12    2. The division shall adopt rules and procedures pursuant  
13 to chapter 17A for the filing, handling, and processing of  
14 claims. A claim under chapter 25A shall be filed as provided  
15 in that chapter. A claim of a state agency in connection  
16 with damaged, destroyed or stolen property shall be filed  
17 as soon as possible after the occurrence of the loss. A claim  
18 under chapters 85, 85A, and 86 shall be filed with the risk  
19 manager by the employer immediately upon receipt of notice  
20 of the claim from the employee.

21    3. The division may hire full-time employees to handle  
22 and adjust claims, or may contract with a service firm to  
23 handle and adjust these claims. Expense for claim adjustment  
24 shall be paid by the self-insurance fund.

25    4. An award upon a claim referred to in subsection 1 shall  
26 be paid promptly from the self-insurance fund.

27    5. All claim payments are subject to audit by the auditor  
28 of state and the insurance department.

29    6. Any property claim payment under subsection 1, paragraph  
30 b, that is in excess of fifty thousand dollars is subject  
31 to approval by the executive council.

32    7. Administration of claims as defined in chapter 25A  
33 is subject to the limitations and conditions contained in  
34 that chapter.

35    Sec. 3. Chapter 18, division VI, Code 1981, is amended

1 by adding the following new section:

2     NEW SECTION.   STATE PROPERTY LOSSES.   Except to the extent  
3 excluded by section 18.161, the cost of repairing, rebuilding,  
4 or restoring state property that is damaged, destroyed, or  
5 lost by fire, storm, theft, or unavoidable cause shall be  
6 paid from the state self-insurance fund established under  
7 section 1 of this Act or from the proceeds of applicable  
8 policies of insurance. The custodian of damaged, destroyed,  
9 or lost state property shall file a claim with the risk  
10 management division as provided in section 1 of this Act.

11     Sec. 4.   Section 8.6, subsection 20, Code 1981, is amended  
12 by striking the subsection.

13     Sec. 5.   Section 18.161, Code 1981, is amended to read  
14 as follows:

15     18.161   SCOPE OF ACT.   ~~Sections 18.160 to 18.169 apply~~  
16 This division applies to all property and casualty loss  
17 exposures, but does not apply to any exposure covered by life,  
18 or accident and health, ~~or workers compensation~~ insurance,  
19 and does not apply to any retirement plan or system.

20     ~~Sections 18.160 to 18.169 shall~~ This division does not  
21 apply to the loss and loss exposures of the state board of  
22 regents or the state department of transportation until July  
23 1, 1980. Commencing July 1, 1980, the duties of the department  
24 of general services under ~~said sections~~ this division shall  
25 extend to and encompass the personnel and property of the  
26 state board of regents and the state department of  
27 transportation in the same manner and to the same extent as  
28 other agencies of state government, ~~said sections shall;~~  
29 provided that this division does not apply to loss and loss  
30 exposures for revenue producing facilities under the state  
31 board of regents which are required to carry insurance under  
32 a bond covenant.

33     Sec. 6.   Section 18.164, subsection 1, Code 1981, is amended  
34 by adding the following new lettered paragraph:

35     NEW LETTERED PARAGRAPH.   To consider, ascertain, adjust,

1 compromise, settle, determine, and allow property, liability,  
2 or workers' compensation claims specified in section 2,  
3 subsection 1, of this Act.

4 Sec. 7. Section 25A.2, Code 1981, is amended by adding  
5 the following new subsection:

6 NEW SUBSECTION. "Risk management division" means the risk  
7 management division of the department of general services.

8 Sec. 8. Section 25A.2, subsection 6, Code 1981, is amended  
9 to read as follows:

10 6. "Award" means any amount determined ~~by-the-state-appeal~~  
11 ~~board~~ under section 25A.3 to be payable to a claimant under  
12 ~~section-25A-3~~, and the amount of any compromise or settlement  
13 under section 25A.9.

14 Sec. 9. Section 25A.3, Code 1981, is amended to read as  
15 follows:

16 25A.3 ADJUSTMENT AND SETTLEMENT OF CLAIMS. ~~Authority~~  
17 ~~is-hereby-conferred-upon-the-state-appeal-board~~ The risk  
18 management division, acting on behalf of the state of Iowa,  
19 subject to the advice and approval of the attorney general,  
20 ~~to~~ may consider, ascertain, adjust, compromise, settle,  
21 determine, and allow any claim as defined in this chapter.  
22 ~~If-any-claim-is-compromised-settled-or-allowed-in-an-amount~~  
23 ~~of-more-than-five-thousand-dollars-the-unanimous-approval~~  
24 ~~of-all-members-of-the-state-appeal-board-and-the-attorney~~  
25 ~~general-shall-be-required-and-the-approval-of-the-district~~  
26 ~~court-of-the-state-of-Iowa-for-Polk-county-shall-also-be~~  
27 ~~required.~~ An award in excess of twenty-five thousand dollars  
28 requires the prior approval of the executive council.

29 Claims made under this chapter shall be filed with the  
30 ~~state-comptroller~~, who risk management division, which shall  
31 acknowledge receipt on behalf of the state appeal-board.

32 The ~~state-appeal-board~~ risk management division shall adopt  
33 rules and procedures for the handling, processing and  
34 investigation of claims, according to ~~the-provisions-of~~ the  
35 Iowa administrative procedure Act.

1     Sec. 10. Section 25A.5, Code 1981, is amended to read  
2 as follows:

3     25A.5 WHEN SUIT PERMITTED. No suit shall be permitted  
4 under this chapter unless the ~~state-appeal-beard~~ risk  
5 management division has made final disposition of the claim;  
6 except that if the ~~state-appeal-beard~~ risk management division  
7 does not make final disposition of a claim within six months  
8 after the claim is made in writing to the ~~state-appeal-beard~~  
9 risk management division, the claimant may, by notice in  
10 writing, withdraw the claim from consideration of the ~~state~~  
11 ~~appeal-beard~~ risk management division and begin suit under  
12 this chapter. Disposition of or offer to settle any claim  
13 made under this chapter shall not be competent evidence of  
14 liability or amount of damages in any suit under this chapter.

15     Sec. 11. Section 25A.11, Code 1981, is amended to read  
16 as follows:

17     25A.11 PAYMENT OF AWARD. Any award to a claimant under  
18 this chapter, and any judgment in favor of any claimant under  
19 this chapter, shall be paid promptly out of ~~appropriations~~  
20 ~~which-have-been-made-for-such-purpose,-if-any,-but-any-such~~  
21 ~~amount-or-part-thereof-which-cannot-be-paid-promptly-from~~  
22 ~~such-appropriations-shall-be-paid-promptly-out-of-any-money~~  
23 ~~in-the-state-treasury-not-otherwise-appropriated~~ the state  
24 self-insurance fund or the proceeds of available insurance  
25 coverage, or both. Payment shall be made only upon receipt  
26 of a written release by the claimant in a form approved by  
27 the attorney general.

28     Sec. 12. Section 25A.13, unnumbered paragraph 1, Code  
29 1981, is amended to read as follows:

30     Every claim and suit permitted under this chapter shall  
31 be forever barred, unless within two years after ~~such~~ the  
32 claim accrued, the claim is made in writing to the ~~state~~  
33 ~~appeal-beard-under~~ risk management division as provided in  
34 this chapter. The time to begin a suit under this chapter  
35 shall be extended for a period of six months from the date



1 of mailing of notice to the claimant by the ~~state-appeal-board~~  
2 risk management division as to the final disposition of the  
3 claim or from the date of withdrawal of the claim from the  
4 ~~state-appeal-board~~ risk management division under section  
5 25A.5, if the time to begin suit would otherwise expire before  
6 the end of such period.

7 Sec. 13. Section 25A.15, Code 1981, is amended to read  
8 as follows:

9 25A.15 ATTORNEY'S FEES AND EXPENSES. The court rendering  
10 a judgment for the claimant under this chapter, or the ~~state~~  
11 ~~appeal-board~~ risk management division, with the advice and  
12 approval of the attorney general, making an award under section  
13 25A.3, or the attorney general making an award under section  
14 25A.9, ~~as-the-case-may-be, shall,~~ as a part of the judgment  
15 or award, shall determine and allow reasonable attorney's  
16 fees and expenses, to be paid out of but not in addition to  
17 the amount of judgment or award recovered, to the attorneys  
18 representing the claimant. Any attorney who charges, demands,  
19 receives, or collects for services rendered in connection  
20 with ~~sueh~~ a claim any amount in excess of that allowed under  
21 this section, if recovery be had, ~~shall-be~~ is guilty of a  
22 serious misdemeanor.

23 Sec. 14. Section 25A.18, Code 1981, is amended to read  
24 as follows:

25 25A.18 EXTENSION OF TIME. If a claim is made or a suit  
26 is begun under this chapter, and if a determination is made  
27 by the ~~state-appeal-board~~ risk management division or by the  
28 court that the claim or suit is not permitted under this  
29 chapter for any reason other than lapse of time, the time  
30 to make a claim or to begin a suit under any other applicable  
31 law of this state shall be extended for a period of six months  
32 from the date of the court order making ~~sueh~~ the determination  
33 or the date of mailing of notice to the claimant of ~~sueh~~ the  
34 determination by the ~~state-appeal-board~~ risk management  
35 division, if the time to make the claim or begin the suit

1 under such the other law would otherwise expire before the  
2 end of such period.

3 Sec. 15. Section 25A.19, Code 1981, is amended to read  
4 as follows:

5 25A.19 CLAIMS BEFORE APPEAL BOARD. Section 25.7 shall  
6 does not apply to claims as defined in this chapter, except  
7 as expressly provided in section 25A.2. The other provisions  
8 of chapter 25 shall do not apply to claims as defined in this  
9 chapter. ~~However, any or all of the provisions of sections~~  
10 ~~25.17, 25.47, and 25.5 may be made applicable to claims as~~  
11 ~~defined in this chapter by agreement between the attorney~~  
12 ~~general and the state appeal board from time to time.~~

13 Sec. 16. Section 25A.20, Code 1981, is amended to read  
14 as follows:

15 25A.20 LIABILITY INSURANCE. ~~Whenever~~ If a claim or suit  
16 against the state is covered by liability insurance, the  
17 provisions of the liability insurance policy on defense and  
18 settlement ~~shall be~~ are applicable notwithstanding any  
19 inconsistent provisions of this chapter. The attorney general  
20 and the ~~state appeal board~~ risk management division shall  
21 co-operate with the insurance company.

22 Sec. 17. Section 29C.20, subsection 1, Code 1981, is  
23 amended to read as follows:

24 1. A contingent fund is created in the state treasury  
25 for the use of the executive council which may be expended  
26 for the purpose of paying the expenses of suppressing an  
27 insurrection or riot, actual or threatened, when state aid  
28 has been rendered by order of the governor, ~~and for repairing,~~  
29 ~~rebuilding, or restoring state property injured, destroyed,~~  
30 ~~or lost by fire, storm, theft, or unavoidable cause,~~ and for  
31 aid to a governmental subdivision in an area declared by the  
32 governor to be a disaster area due to natural disasters or  
33 to expenditures necessitated by the governmental subdivision  
34 toward averting or lessening the impact of the potential  
35 disaster, where the effect of the disaster or the action on

1 the governmental subdivision is the immediate financial  
2 inability to meet the continuing requirements of local  
3 government. Upon application by a governmental subdivision  
4 in such an area, accompanied by a showing of obligations and  
5 expenditures necessitated by the actual or potential disaster  
6 in the form and with information as the executive council  
7 may require, the aid may be made in the discretion of the  
8 executive council and, if made, shall be in the nature of  
9 a loan up to a limit of seventy-five percent of the showing  
10 of the obligations and expenditures. The executive council  
11 may provide fifty percent of the loan as a grant. However,  
12 the grant shall not exceed fifty thousand dollars and shall  
13 not be provided for the purpose of snow removal and other  
14 expenses resulting from a blizzard. The loan, without  
15 interest, may be repaid by the maximum annual emergency levy  
16 as authorized by section 24.6. The loan shall be repaid  
17 within twenty years. The aggregate total of the loans and  
18 grants shall not exceed one million dollars during a fiscal  
19 year. The executive council may provide a grant for an  
20 existing loan of a governmental subdivision.

21 Sec. 18. Section 64.2, Code 1981, is amended by adding  
22 the following new unnumbered paragraph:

23 NEW UNNUMBERED PARAGRAPH. When an officer or employee  
24 of state government is required by law to furnish a bond  
25 assuring fidelity or faithful performance, the state self-  
26 insurance fund shall pay the cost of the bond. In lieu of  
27 individual bonds, the risk manager may obtain one or more  
28 blanket bonds furnished by authorized surety companies to  
29 cover all officers and employees or groups of officers and  
30 employees; provided that a blanket bond shall not be  
31 substituted for an individual bond with respect to an officer  
32 or employee unless all obligations that are required by law  
33 to be assumed by the officer or employee and the sureties  
34 in an individual bond are assumed in the blanket bond. The  
35 risk manager also may purchase either individual or blanket

1 bonds with a per loss deductible provision. In lieu of  
2 purchasing either individual or blanket bonds, the risk manager  
3 may elect to self-insure all or any part of this type of loss  
4 exposure under the state self-insurance fund established by  
5 section 1 of this Act.

6 Sec. 19. Section 85.57, Code 1981, is amended to read  
7 as follows:

8 85.57 EMPLOYEES OF STATE. All valid claims ~~now-due-or~~  
9 ~~which-may-hereafter-become~~ due employees of the state under  
10 ~~the-provisions-of~~ this chapter shall be paid out of ~~any-fund~~  
11 ~~in-the-state-treasury-not-otherwise-appropriated~~ the state  
12 self-insurance fund established by section 1 of this Act.

13 Sec. 20. Section 85.58, Code 1981, is amended to read  
14 as follows:

15 85.58 PAYMENT OF STATE EMPLOYEES. The ~~state-comptroller~~  
16 risk management division is ~~hereby-authorized-and~~ directed  
17 ~~to draw-warrants-on-the-state-treasury-for-any-and~~ pay all  
18 amounts due state employees under the provisions of this  
19 chapter out of the state self-insurance fund established under  
20 section 1 of this Act.

21 Sec. 21. Section 25A.12, Code 1981, is repealed.

22 Sec. 22. EFFECTIVE DATES.

23 1. Sections 1, 3, 11, 18, 19, and 20 of this Act take  
24 effect at such time as money is initially appropriated by  
25 the general assembly to the state self-insurance fund created  
26 by section 1 of this Act.

27 2. All sections of this Act other than those referred  
28 to in subsection 1 take effect January 1 following enact-  
29 ment. All claims governed by section 2 of this Act and on  
30 file with the state as of the effective date specified in  
31 this subsection shall be transferred administratively to the  
32 risk management division on the effective date specified in  
33 this subsection. The department of general services may adopt  
34 rules after July 1 following the enactment of this Act to  
35 take effect on January 1 following the enactment of this Act.

## EXPLANATION

- 1  
2 This Act relates to losses and loss exposures of state  
3 government arising out of loss or damage to state property,  
4 breach of fidelity by officers and employees, tort claims  
5 under chapter 25A, and workers compensation claims of state  
6 employees under chapters 85, 85A, and 86.
- 7 The principal purposes of the bill are to transfer to the  
8 risk management division of the department of general services  
9 the administration of losses and claims in these areas, and  
10 to establish a state self-insurance fund to finance these  
11 losses.
- 12 Section 1 of the bill creates a state self-insurance fund  
13 to be used to repair, rebuild, or restore losses of all state  
14 property, except revenue-producing facilities of the board  
15 of regents that are insured under bond covenant, that is  
16 damaged, destroyed, or lost by fire, storm, theft, or  
17 unavoidable cause. The fund would have to be financed by  
18 separate appropriations bills, and when funded would be used  
19 to satisfy claims, except to the extent of excess insurance  
20 coverage purchased by the risk manager. The state self-  
21 insurance fund also would be used to pay tort claim awards  
22 and workers compensation claims.
- 23 Section 2, in conjunction with sections 3 through 17 and  
24 19 through 21, transfer the duties of administering the claims  
25 to the risk manager and establish the procedures for handling  
26 these claims and related expenses.
- 27 Section 18 adds new Code language to authorize the risk  
28 manager to purchase blanket bonds and deductible bonds, and  
29 to elect to self-insure against losses, in those cases where  
30 the law requires a state officer or employee to furnish a  
31 fidelity bond.
- 32 Sections 1, 3, 11, 18, 19, and 20 of the bill would take  
33 effect as soon as money is appropriated into the fund.
- 34 All other provisions would take effect January 1 following  
35 enactment, but the risk manager could adopt rules for claims

1 processing after July 1 to take effect as of January 1 when  
2 the duties to handle claims are transferred.

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