

**THE KANSAS WORKERS'
COMPENSATION FUND
SECOND-INJURY FUND**

ADMINISTERED BY:
SANDY PRAEGER
COMMISSIONER OF INSURANCE

2009 FISCAL YEAR REPORT
JULY 1, 2008 - JUNE 30, 2009

2009 FISCAL YEAR ANNUAL REPORT

1. INTRODUCTION

Pursuant to K.S.A. 2008 Supp. 44-566a, which was amended by the Kansas Legislature in 2006 House Bill 2560, the Commissioner of Insurance shall annually report to the Governor and the Legislature the receipts and disbursements from the workers compensation fund (also known as the workers' compensation second-injury fund) during the preceding fiscal year. The data, which is attached at the beginning of this report, provides a disclosure of receipts and expenditures for Fiscal Year 2009. This report corresponds with the data provided by the Division of Accounts and Reports of the State of Kansas. This information provides a comparison between Fiscal Year 2008 and Fiscal Year 2009. The tables are provided to enhance understanding of the financial affairs and operations of the Workers' Compensation Second-Injury Fund.

2. RECEIPTS FOR FISCAL YEAR 2009

Receipts during Fiscal Year 2009 to the Workers' Compensation Fund totaled \$4,068,723.41. This amount includes \$3,781,389.04 in receipts from the annual assessment. There were miscellaneous reimbursements totaling \$29,248.28 and fines and penalties totaling \$267,504.35. The available funding for Fiscal Year 2009 was \$10,836,507.28. The amount includes money carried over from the previous fiscal year which totaled \$9,122,783.87. What did not occur was a \$1.0 million "payback" transfer from the State General Fund. This "payback" transfer, like two previous transfers, was to occur on June 30, 2009. Because balances in the State General Fund were critically low, the 2009 Legislature did not approve the payback for FY 2009. More information about these "payback" transfers is provided under Item#4 below.

3. EXPENDITURES FOR FISCAL YEAR 2009

Fiscal Year 2009 expenditures totaled \$4,429,852.60. The majority of the Fund's expenses represent disability compensation, medical, and attorney fees, which totaled 92.13% of the total expenditures (see Figure II). The remaining expenses comprise vocational rehabilitation of \$19,865.48; costs specific to litigation at \$49,378.25; and other operating expenses of \$279,431.90.

In Fiscal Year 2009, disability compensation represented 32.23% of all expenditures as compared to 37.13% in Fiscal Year 2008 (see Figure II).

4. TRANSFERS-OUT "SWEEPS" TOTALING \$11.0 MILLION TO THE STATE GENERAL FUND IN FY 2002 AND FY 2003. NEW "SWEEP" of \$2.35 MILLION in FY 2009.

Section 32(b) of 2002 Senate Bill 363, required the Director of Accounts and Reports to transfer \$7.0 million out of the Insurance Department's Workers' Compensation Fund to the State General Fund. This transfer occurred on June 30, 2002. Additionally, 2003 House Bill 2026, Section 10(a)(1) required the Director of Accounts and Reports to transfer \$4.0 million out of the Insurance Department's Workers' Compensation Fund to the State General Fund. This transfer occurred on June 30, 2003. These "sweeps" of the Workers' Compensation Fund severely reduced available funds. These "sweeps" have made it necessary to assess insurance companies in subsequent years to ensure that there are adequate receipts to pay claimants and the associated costs that are paid per statute.

2003 House Bill 2026, Section 10(a)(2)(3)(4)(5) required the Director of Accounts and Reports to make four annual "payback" transfers of \$1.0 million each from the State General Fund to the Insurance Department's Workers' Compensation Fund. These \$1.0 million "payback" transfers began on June 30, 2007. Another occurred on June 30, 2008. According to 2003 House Bill 2026, the remaining two "payback" transfers from the State

General Fund to the Workers' Compensation Fund were to occur on June 30, 2009 and June 30, 2010.

2009 Legislature Delays Two \$1.0 Million “Payback” Transfers and Approves New Sweep Out of the WC Fund Totaling \$2.35 Million

Chapter 2, Section 86 (i) (1) of the *2009 Session Laws of Kansas* delayed for two years, from June 30, 2009 to June 30, 2011, a previously scheduled third of four \$1.0 million “payback” transfers from the State General Fund to the Insurance Department Workers' Compensation Fund. Section 131 (b)(1) of Chapter 124 of the *2009 Session Laws of Kansas* further delayed from June 30, 2010 to June 30, 2012, the fourth and final previously scheduled “payback” of \$1.0 million from the State General Fund to the Insurance Department's Workers' Compensation Fund.

The combination of two provisions; Chapter 144, Section 61(c) and Section 80 (b) of the *2009 Session Laws of Kansas* (2009 Senate Substitute for HB 2373 – Omnibus Appropriations Bill) effectively approved a sweep of \$2.355 million from the Department's Workers' Compensation Fund to the State General Fund in FY 2009. There is no payback provision to-date for this latest sweep of the Workers' Compensation Fund.

5. CONCLUSION

As of June 30, 2009, the Workers' Compensation Fund had a total of 3,991 open cases. This represents an increase of approximately 1.1% from Fiscal Year 2008's 3,943. Of these open cases, 354 are in active litigation and 22 of the total open cases require monthly payments to be made to claimants. The Fund will continue to require revenue for claims that occurred prior to July 1, 1994. The Fund will also require revenue for insolvent/uninsured employers and certification cases. The additional revenue will come in the form of future assessments on insurance companies and self-insurers, and miscellaneous reimbursements. Additionally, revenue into the fund is owed in the form of “legislative paybacks” of monies that have been swept-out of the Workers' Compensation Fund and into the State General Fund in past Legislative Sessions.

ANNUAL REPORT OF RECEIPTS AND DISBURSEMENTS

Kansas Workers' Compensation Fund for Fiscal Year 2009

Balance as of July 1, 2008	<u>\$ 9,122,783.87</u>
Assessment Receipts	3,781,389.04
Fines and Penalties	267,504.35
Miscellaneous Reimbursements	<u>29,248.28</u>
TOTAL RECEIPTS	<u>\$ 4,078,141.67</u>
Compensation Expenditures	\$ (1,427,872.73)
Medical Expenditures	(2,333,303.00)
Vocational Rehab. Work Assessment Expenditures	(19,865.48)
Attorney Fee Expenditures	(320,001.24)
Court Reporter and Deposition Fee Expenditures	(49,378.25)
Other Operating Expenses	<u>(279,431.90)</u>
TOTAL EXPENDITURES	<u>\$ (4,429,852.60)</u>
Operating Transfer Out	\$ (9,418.26)
Legislative Sweep	\$ (2,355,000.00)
Recovery From Prior Year Expenditures	\$ 63.00
FY 2009 Encumbrance	<u>-</u>
Ending Balance, June 30, 2009	<u>\$ 6,406,717.68</u>

STATE OF KANSAS

**FIGURE I
WORKERS' COMPENSATION FUND
RECEIPT ANALYSIS**

DESCRIPTION	FY 2009	% OF TOTAL	FY 2008	% OF TOTAL
Assessment Receipts	\$ 3,781,389.04	34.89%	\$ 5,259,038.44	37.34%
Fines and Penalties	267,504.35	2.47%	249,091.14	1.77%
Miscellaneous Reimbursements	29,248.28	0.27%	124,250.09	0.88%
Operating Transfer In	-	0.00%	1,000,000.00	7.10%
Operating Transfer Out	(9,418.26)	-0.09%	-	0.00%
TOTAL RECEIPTS	\$ 4,068,723.41		\$ 6,632,379.67	
Previous Year Carryover *includes current year assessments	\$ 9,122,783.87	84.19%	\$ 7,452,736.54	52.91%
SUBTOTAL	\$ 13,191,507.28			
Legislative Sweep	\$ (2,355,000.00)	-21.73%		0.00%
TOTAL FUNDS AVAILABLE	\$ 10,836,507.28	100.00%	\$ 14,085,116.21	100.00%

*Small rounding error may occur in percentage formulas

FIGURE II
WORKERS' COMPENSATION FUND
EXPENDITURE ANALYSIS

DESCRIPTION	FY 2009	% OF TOTAL	FY 2008	% OF TOTAL
Disability Compensation	\$ 1,427,872.73	32.23%	\$ 1,842,295.56	37.13%
Voc. Rehab. Work Assessments	19,865.48	0.45%	6,712.26	0.14%
Medical				
Doctors	287,732.94	6.50%	325,811.61	6.57%
Hospitals	1,026,932.54	23.18%	1,079,626.07	21.76%
Drugs	172,654.73	3.90%	132,504.61	2.67%
Misc. Medical Supplies(braces, etc.)	38,398.60	0.87%	117,169.18	2.36%
Other Services (memberships, tuitions, etc.)	9,193.51	0.21%	1,549.82	0.03%
Reimbursements to Insurance Cos. [K.S.A. 44-569(a) and K.S.A. 44-569]	798,390.68	18.02%	763,681.03	15.39%
Attorney's Fees	320,001.24	7.22%	353,101.68	7.12%
Court Costs, Depositions, Medical Reports, etc.	49,378.25	1.11%	59,870.36	1.21%
Other Operating Expenses	279,431.90	6.31%	279,653.91	5.64%
TOTAL EXPENDITURES	\$ 4,429,852.60	100.00%	\$ 4,961,976.09	100.00%

*Small rounding error may occur in percentage formulas

SOURCES OF FUNDING

FISCAL YEARS 2009 - 2008

<u>FY 2009</u>	<u>DESCRIPTION</u>	<u>FY 2008</u>
0.27%	1 = Miscellaneous Reimbursements	0.88%
2.47%	2 = Fines and Penalties	1.77%
34.89%	3 = Assessment Receipts	37.34%
84.19%	4 = Carryover Balance and Cancelled Checks	52.91%
0.00%	5 = Operating Transfer In	7.10%
-0.09%	6 = Operating Transfer Out	0.00%
<u>-21.73%</u>	7 = Legislative Sweep	<u>0.00%</u>
100.00%		100.00%

*Small rounding error may occur in percentage formulas

DISBURSEMENTS OF EXPENDITURES

FISCAL YEARS 2009 - 2008

<u>FY 2009</u>	<u>DESCRIPTION</u>	<u>FY 2008</u>
1.11%	1 = Administrative Costs (Court Reporter & Deposition Fees)	1.21%
32.23%	2 = Compensation Costs	37.13%
0.45%	3 = Vocational Rehabilitation	0.14%
52.67%	4 = Medical Costs	48.78%
6.31%	5 = Other Operating Expenses	5.64%
<u>7.22%</u>	6 = Attorney Fee Expenses	<u>7.12%</u>
100.00%		100.00%

*Small rounding error may occur in percentage formulas