



DEPARTMENT OF ADMINISTRATION
INDUSTRIAL SPECIAL INDEMNITY FUND

**Calendar Year 2005 Report
Fiscal Year 2006 Report**

December 31, 2005

*Industrial Special Indemnity Fund (ISIF) – Annual Report for Calendar Year 2005
pursuant to Idaho Code §72-324.*

Ted Roper, ISIF Manager

Industrial Special Indemnity Fund

The Industrial Special Indemnity Fund (ISIF) was adopted in 1927 by the Idaho State Legislature as part of the state's workers compensation system. The purpose of the ISIF, commonly referred to as the "second injury fund", is to encourage employers to hire disabled workers by offering the employer relief from total and permanent disability liability if the disabled worker is subsequently injured and becomes totally and permanently disabled.

The ISIF is codified as to its purpose and management at §72-323 §72-324 §72-331 and §72-334.

Funding for the Industrial Special Indemnity Fund is provided by an annual assessment. The assessment is calculated two times the amount of ISIF's expenses incurred during the previous fiscal year less the existing cash balance. The total annual assessment is pro-rated semi-annually among the State Insurance Fund, self-insured employers, and sureties based on each entity's proportionate share of total indemnity benefits paid on open workers' compensation claims during each semi-annual reporting period. The Industrial Commission prepares the semi-annual notice of assessment for each responsible entity. The Commission also bills each entity its semi-annual assessment and collects the funds as they are remitted.

The assessment formula of funding replaced the levy system as of July 1, 1997 with the repeal of sections §72-327 and §72-328 and the addition of new sections §72-327 and §72-328. The assessment formula allows ISIF liability to be included in the workers' compensation premium collected by sureties.

Claimants, self-insured companies, sureties, or the Idaho State Insurance Fund may access the ISIF for potential liability relief by submitting a claim under the "60 day" rule, §72-334. During the 60 days from submission, the ISIF will undertake an in-house review of the claim for liability and either settle or deny the claim. At the conclusion of 60 days, either of the parties can elect to file a Complaint Against the Industrial Special Indemnity Fund (IC Form 1002). Upon service of a Complaint, the ISIF will refer the claim to outside legal counsel and commence formal litigation.

Settlement of claims may be concluded by lump sum, periodic monthly payments, or a combination of both with the approval of the Industrial Commission. While settlement may relieve sureties or self-insured employers of total and permanent disability liability, benefit payments are only made to claimants. The ISIF is liable for lifetime total and permanent disability benefits only; all other workers compensation benefits are excluded. Allocation of total and permanent disability liability between the employer/surety and the ISIF is made under the Carey apportionment formula. Cited *Carey v. Clearwater*.

Benefit rates for total and permanent disability, and hence ISIF liability, are specified at §72-408 and §72-409. In general total and permanent disability benefit is based at 60% or 45% of the average state weekly wage for injuries prior to July 1991, and 67% or 45% of the average state weekly wage for injuries occurring after July 1991. The minimum or maximum benefit percentage is determined by the injured worker's average weekly wage. Benefits are paid at the determined percentage of the average state weekly wage for the year of benefit.

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OPERATIONS

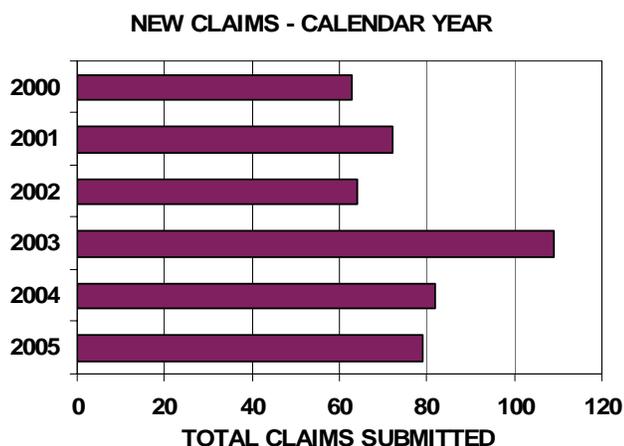
Adjudication

Adjudicating claims seeking total and permanent disability benefits is a major function of the ISIF. The following claims information is based on calendar year statistics and includes new claim filings, closed claim results, and litigation cost breakdown.

New Claims

New claim filings in 2005 year to date are 79, which confirm a return to an average of 70 claims per year. New claims are either filed formally with a Complaint, or informally alleging ISIF liability.

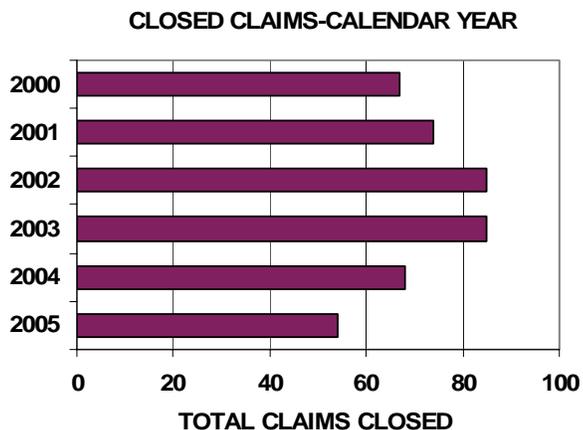
During the period of 1996 – 2002 the average new claim filings were 70 per year. In calendar year 2003 new claim filings were up nearly 60%, and in 2004 claim filings were up 30% higher than average.



The Industrial Special Indemnity Fund is proactive in bringing claims to final adjudication. By adjudicating claims in a more proactive management style, litigation costs, liability exposure, and operational expenses are tied to the same time frames the claim liability was created.

Closed Claims

In year to date 2005, 95% of closed claims were non-merit and settled claims. These percentages follow very closely the same result percentages of previous years.



Historically the ISIF has either settled claims or has been found not to have liability in over 90% of the closed claims. Contested claims in which the ISIF was found liable account for 5 to 7 percent of total claim results or outcomes.

Closed claims can be categorized by result or outcome using the following definitions:

Non-Merit Claims

- Dismissal without Prejudice – Dismissal by the Industrial Commission but allows the claimant to sue again on the same cause of action.
- Dismissal with Prejudice – Final disposition of a claim by the Industrial Commission barring the right to bring another claim on the same cause.
- Judgment Win – Final decision by the Industrial Commission on a fully litigated claim determining no liability to the ISIF.
- Denied – An in-house denial of ISIF liability.

Settled Claims

- LSS – Lump Sum settlement agreement.
- LSS/Stat Bens – Lump sum settlement that includes monthly benefits to be paid in the future.

Judgment Loss

- Judgment Loss – Final decision by the Industrial Commission on a fully litigated claim determining ISIF to have liability.

Appeal Affirmed

- Appeal from the Industrial Commission decision affirmed by the State Supreme Court

Appeal Reversed

- Appeal from the Industrial Commission decision reserved by the State Supreme Court

While the total number of ISIF claims fully adjudicated through the Industrial Commission hearing process may appear small in number, each claim represents a significant lifetime liability.

	RESULT OUTCOMES			
	CY2005	% Total	CY 2004	% Total
Non-Merit Claims				
Dis W/O	7	13.0%	4	6.0%
Dis W/P	0	0.0%	2	3.0%
Judge Win	5	9.3%	4	6.0%
Denied	13	24.1%	14	20.9%
Settled Claims				
LSS	23	42.6%	34	50.7%
LSS/Stat Benefits	4	7.4%	7	10.4%
Judgment Loss				
Judg Loss	2	3.7%	2	3.0%

Currently, a typical claimant receives approximately \$18,300 per year with annual increases for life. If the claimant is 50 years of age with life expectancy of 28 years, he or she represents a liability of approximately \$510,000 in present dollar value.

The ISIF has been involved in about 4% of the total Industrial Commission decisions on a calendar year to date basis. This indicates a high level of ISIF involvement in the state's workers' compensation system considering the relatively small number of ISIF claims.

The ISIF also shares in a significant percentage of Supreme Court decisions by calendar year. Although the ISIF has been involved as a party in numerous appeals, it seldom is the appellant party.

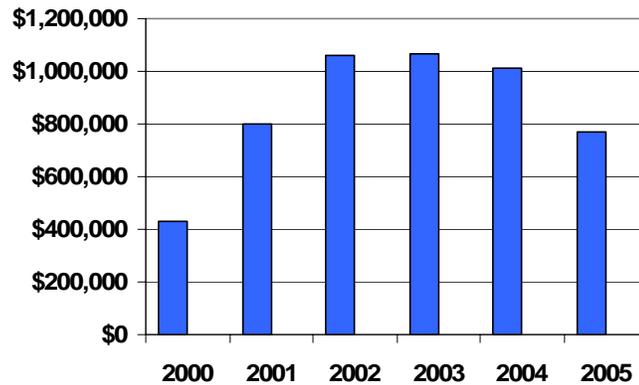
YEAR	NO. OF IC DECISIONS	INVOLVING ISIF	SUPREME COURT DECISIONS	INVOLVING ISIF
2000	62	7	7	2
2001	115	11	12	4
2002	103	9	10	3
2003	104	7	6	3
2004	102	6	4	0
2005	94	4	12	2

Benefits Administration

Settlement of a claim may be accomplished through a one-time lump sum payment, periodic monthly benefits at a negotiated rate and time frame, or statutory monthly benefits prescribed by code and the Carey apportionment formula.

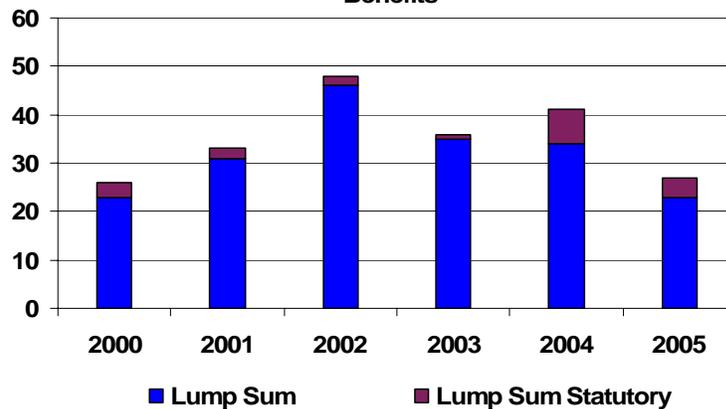
In 2005, \$2.3 million was paid in benefits, including lump sum/arrearage payments of \$880,787. Total benefits paid, including lump sum/arrearage payments and structure purchases during 2002 – 2004 was over \$12,666,749; with an average yearly benefit during this prior being over \$4.2 million.

LUMP SUM BENEFITS - CALENDAR YEAR



Monthly annuitant benefits were paid to an average of 99 annuitants, in addition to 21 claimants whom are receiving payments from structured annuities and a small make-up allowance from ISIF funds in calendar year 2005. These benefits are periodic payments paid

Lump Sum Settlements & Lump Sum Statutory Benefits



to claimants who have either entered into a settlement with the ISIF, or who have been awarded benefits through an Industrial Commission decision adverse to the ISIF.

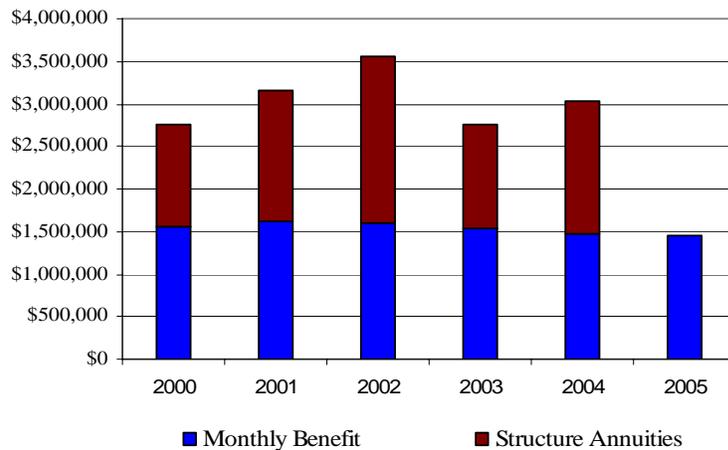
The amount of benefit varies for each claimant depending on maximums and minimums, date of injury, and compromised terms of settlement. Most annuitant benefits are based at 45%, 60%, or 67% of the state average weekly wage, for year of benefit and after a differential time period. The benefits generally are for life.

Annuitants' annual benefit payments have risen dramatically since 1993. In large part, this is due to an increase in benefit rates, from 60% to 67% of the average state weekly wage commencing with injuries suffered on or after July 1, 1991. In addition, the state's average weekly wage has increased 46% since 1993 from \$373 to \$543.

The 127 annuitants currently receiving benefits represent unfunded liability that has accumulated over the life of the ISIF. Some annuitants started receiving lifetime benefits prior to 1971.

In 1999 the ISIF began a systematic management plan to retire the accrued unfunded annuitant liability by purchasing structure annuities on select claims. A certain portion of the total annual annuitant benefit paid in subsequent years was for the retirement of claims through structure annuities.

ANNUITY PAYMENTS BY CALENDAR YEAR



Milliman, Inc., Evaluation Life Annuity Claims

In 2005, the fund commissioned the actuarial firm of Milliman, Inc. to value the current and future life annuity claims (the "Carey" apportioned claims). Milliman valued 112 claims, with dates of injury ranging from 1971 through 2001.

MILLIMAN, INC. EVALUATION

Undiscounted Value of Annuity Claims	\$30,815,556
Present Value of Annuity Claims	\$19,149,124

In addition, unfunded liabilities in the form of incurred but not reported (IBNR) claims also exist. ISIF claim history suggests that, on average, it is 2.7 years from the time a second injury occurs until claim is made. Though, IBNR has not been actuarially

calculated for all future claims, a reasonable estimate for claims ultimately settled by LLS is \$1,917,000.¹

From 1999 to 2004, the fund purchased life annuities from life insurance companies to pre fund the liability of 34 claims not included above. The approximate purchase price of those annuities was \$7.765 million. While the current liability for those 34 persons is not know, it is believed that the current value of the annuity contracts is, for all practical purpose, equal to the fund’s obligation to the 34 annuitants.

Present Value of Annuity Claims	\$19,149,124
Approximate Value of IBNR LSS	<u>\$ 1,917,000</u>
Approximate Unfunded Liabilities at 11/1/04 ²	\$21,066,124

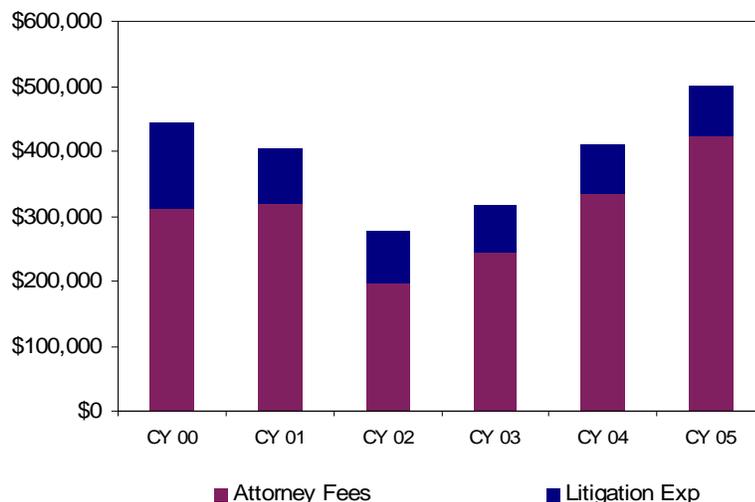
The claims valuation was undertaken so that a more accurate picture of the financial position of ISIF could be established. It is the intent of the fund to continue to refine the data and report it in such a way that those paying into the system will have a better understanding of the ongoing operations and future obligations of the fund.

Litigation Costs

Litigation expense and time delays involved in litigation were a concern of the ISIF and were the precipitating factors in seeking the "60 day" legislation. The "60 day", or Notice of Intent, legislation passed in 1997 allows the ISIF 60 days in which to review and possibly settle claims without involving outside legal counsel. The legislation has permitted the ISIF to better manage litigation expense with in-house review prior to assigning the claim to outside legal counsel for adjudication. In addition, the proposal sought to bring speedier relief and a less litigious process to claimants, sureties, and self-insured employers.

The average number of days a claim is in adjudication has dropped significantly. The "60 day" legislation is codified as §72-334.

LITIGATION EXPENDITURES BY CALENDAR YEAR



Proactive management of claims has also contributed to the substantial overall decline in litigation costs from a high of nearly \$800,000 in 1995. The litigation costs in 2005 were approximately 18%

¹ Average Annual LLS for 1993 – 2004 is \$710,000. Avg. X’s 2.7 yrs IBNR = \$1,917,000

² Does not include IBNR for Permanent and Total Disability Claims

higher than the litigation cost in 2004. The average yearly litigation costs over the last five years was \$382,581, which is still about 52% lower than the 1995 litigation costs.

It is especially noteworthy that simultaneous to the litigation savings, claims closure rates rose to an all-time high. In addition, non-merit result outcome categories remained consistent, indicating no liability sacrifice.

Litigation costs include all expenses incurred over the litigated life of the claim. The costs include attorney fees, deposition costs, independent medical examinations, sub-rosa investigations, and medical and vocational report costs.

Non-merit claims collectively refer to claims in which the ISIF was found not to have liability. These types of claims can generate high litigation costs, however, as they represent potential high liability exposure.

**LITIGATION COSTS ASSOCIATED
WITH
SETTLEMENT & JUDGMENT LOSS CLAIMS
AND NON-MERIT CLAIMS**

	LUMP SUM		LSS WITH STAT BEN		JUDGMENT LOSS		DIS W/O		DIS W/P		DENIED		JUDGE WIN	
	Number Claims	Litigation Cost	Number Claims	Litigation Cost	Number Claims	Litigation Cost	Number Claims	Litigation Cost	Number Claims	Litigation Cost	Number Claims	Litigation Cost	Number Claims	Litigation Cost
2000	23	93,595	3	4,786	2	34,101	5	46,220	2	13,384	21	2,636	8	175,166
2001	31	193,216	2	5,347	1	11,870	4	28,206	1	7,313	19	1,466	9	161,758
2002	46	66,737	2	8,115	3	43,238	6	61,369	1	13,768	18	3,060	6	135,022
2003	35	106,178	1	984	3	40,499	2	2,643	1	259	35	14,007	2	38,194
2004	34	161,926	7	54,065	2	35,928	4	12,190	3	23,729	14	6,124	4	71,204
2005	23	\$147,735	4	\$31,200	2	\$22,440	7	\$34,894	0	\$0	13	\$12,352	5	\$44,500

Revenue

ISIF revenue was dependent on a levy system for funding prior to July 1, 1997. The levy was a percent of certain paid benefits assessed on individual claims by the Industrial Commission when the claim was closed. The levy proved inadequate to provide the sustained revenue needs of the ISIF; due in large measure to the 1991 benefit increase from 60% to 67% and continued annual increases in the state's average weekly wage.

The prolonged inability of the levy system to generate adequate funding prompted the workers' compensation industry and the ISIF to draft legislation to change the funding method. As a result, the 1997 Idaho Legislature passed a new funding formula effective in fiscal year 1998, based on an annual assessment of two times the ISIF's fiscal year expenditures less cash available.

The assessment is paid semi-annually by sureties, self-insured employers and the State Insurance Fund on a pro-rata basis to total indemnity paid. The first assessments were received in April and September 1998. The new assessment funding creates certainty for sureties, self-insured and the State Insurance Fund. Without a change in the revenue funding, the ISIF would have been unable to satisfy its obligation early in 1998.

ASSESSMENT TIME LINE

Assessment Date	Total Assessment	Indemnity Period	Due Date	Payment Amount
June 30, 2003	\$4,597,470	7-1-03-->12-31-03	Apr-04	\$2,298,735
		1-1-04--> 6-30-04	Sep-04	\$2,298,735
June 30, 2004	\$4,212,987	7-1-04-->12-31-04	Apr-05	\$2,106,494
		1-1-05--> 6-30-05	Sep-05	\$2,106,494
June 30, 2005	-\$209,673	7-1-05-->12-31-05	Apr-06	\$0
		1-1-06--> 6-30-06	Sep-06	\$0

During the six fiscal years prior to 2005, the ISIF had purchased annuities to fully fund the benefits of a number of the claims incurred in prior years. In FY 2005, the fund elected to discontinue that practice. As a result, cash expenditures for the year were significantly lower than those of the proceeding years. Because the cash balance on hand at the end of FY 2005 is sufficient to pay FY 2006 expenses, the assessment formula (2 times expenses minus cash), produces a negative assessment for the year.

Expenditure

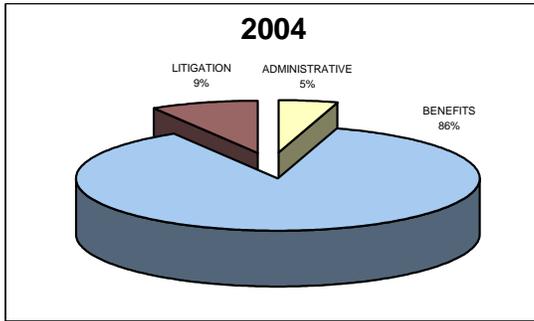
ISIF expenditures are broken into three main areas: administrative, benefits and litigation. Administrative costs include salaries for three full time employees and general office expenses such as technical services, rent, supplies, and capital outlay.

Benefit expenses include periodic annuitant payments, lump sum settlements and structured annuities. These expenses have continued to rise due mainly to the number of annuitants, the increased state average weekly wage and the retirement of unfunded liability through structure annuities.

Litigation costs include attorney fees and costs, medical and vocation reports, deposition costs, investigative costs, appeal expenses, independent medical examinations, and rehabilitation and adjuster expenses. Litigation expense rose substantially to a peak in FY 1996 of nearly \$800,000 largely due to the increases in new claim filings and the costs associated with the Complaint process. Since the implementation in 1997 of §72-334, the “60 day” rule, the percentage of litigation costs to total expenditures has substantially decreased from 26% of the total expenditures in 1997 to less than 10% in 2004.

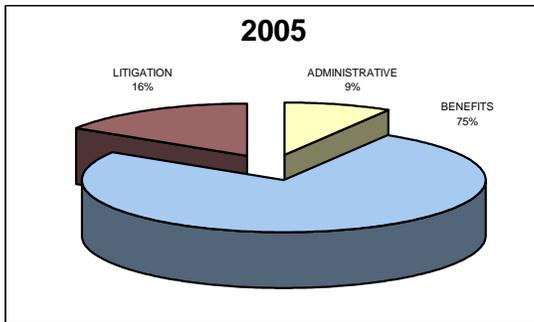
The following graphs illustrate expenditures on a calendar year and fiscal year:

**CALENDAR YEAR
EXPENDITURES BY PERCENTAGE OF TOTAL**



2004 Calendar Year Expenditures

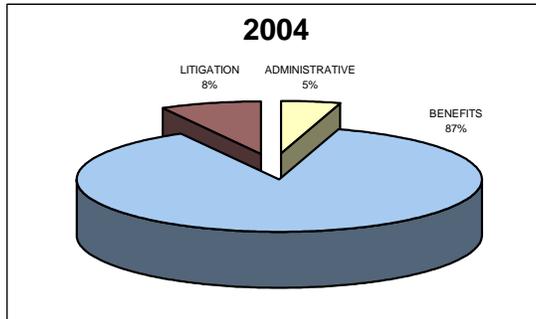
ADMINISTRATIVE	\$ 221,075
BENEFITS	\$ 4,167,316
LITIGATION	\$ 411,231
TOTAL	\$ 4,799,622



2005 Calendar Year Expenditures

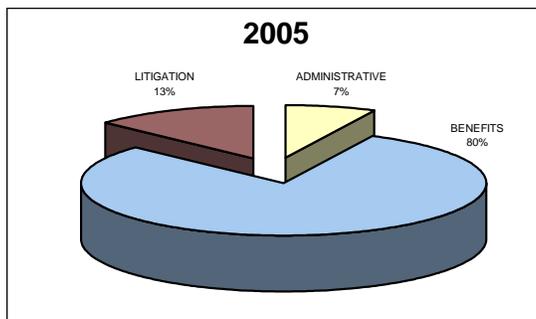
ADMINISTRATIVE	\$ 267,218
BENEFITS	\$ 2,327,953
LITIGATION	\$ 501,051
TOTAL	\$ 3,096,222

**FISCAL YEAR
EXPENDITURES BY PERCENTAGE OF TOTAL**



2004 Fiscal Year Expenditures

ADMINISTRATIVE	\$ 227,304
BENEFITS	\$ 4,111,654
LITIGATION	\$ 381,205
TOTAL	\$ 4,720,163



2005 Fiscal Year Expenditures

ADMINISTRATIVE	\$ 235,463
BENEFITS	\$ 2,631,740
LITIGATION	\$ 425,501
TOTAL	\$ 3,292,704