

Industrial Special Indemnity Fund

ANNUAL REPORT

December 31, 2008

Calendar Year 2008

Fiscal Year 2009



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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.

***Industrial Special Indemnity Fund (ISIF) – Annual Report for Calendar Year 2008
pursuant to Idaho Code §72-324.***

Ted Roper, ISIF Manager

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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 are filed informally alleging ISIF liability or formally with a Complaint against the ISIF. Normally the average new claims filed are about 79 filings a year (since 1991); however ISIF observed high new claim filings in CY 2003 (109 claims), 1993 (118 claims) and 1994 (103 claims). In CY 2008 there were a total of 57 new claims filed.

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.

The total number of ISIF claims fully adjudicated through the Industrial Commission hearing process appears small in number; though each claim represents a significant lifetime liability or lump sum (one time payment). Based upon present dollar value, if a claimant is 55 years of age with a life expectancy of 26 years, he or she represents a liability of approximately \$405,576.

Since 1995, ISIF has settled over 847 claims through either settlement with the ISIF or an awarded benefit by the State Industrial Commission; approximately 29% of the claims were non-merit claims and 71% merit claims. In CY 2008, 80% of the claims settled were merit claims resulting in lifetime liability or a lump sum payment; with 20% of the claim being non-merit.

YEAR	NO. OF IC DECISIONS	INVOLVING ISIF	SUPREME COURT DECISIONS	INVOLVING ISIF
2003	104	7	6	3
2004	102	6	4	0
2005	94	4	12	2
2006	90	10	8	0
2007	112	20	9	0
2008	97	34	12	1

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

Non-merit claims - Includes dismissals without prejudice, dismissals with prejudice, judgment wins, and denied. With the exception of denials, which are in-house determinations, the remaining results are determinations by the Industrial Commission. Claims within these categories receive no monies or benefits.

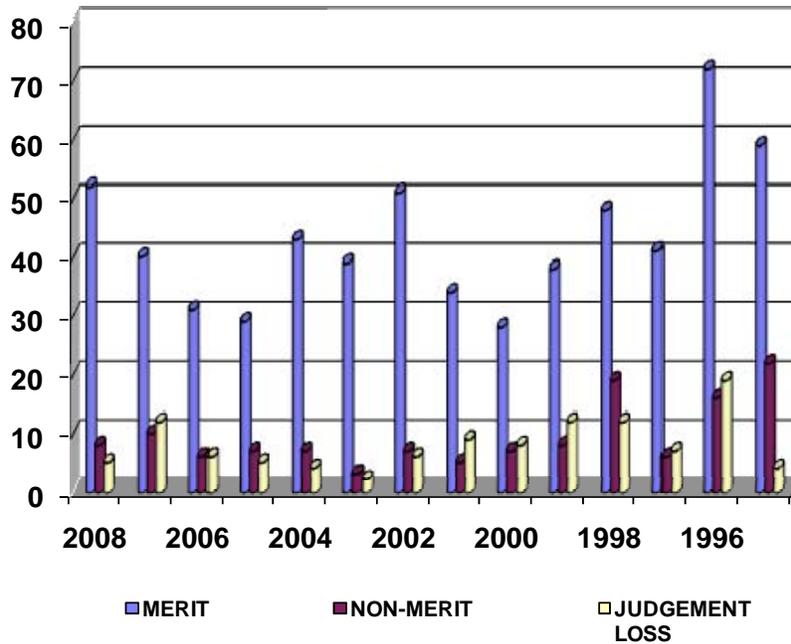
Settled claims- Includes lump sum settlements and lump sum settlements with statutory benefits. The statutory benefits, with or without a lump sum, receive cash

and periodic benefits while the lump sum settlements receive a one-time only cash amount.

Judgment loss - Claims the ISIF has contested and found liable by decision of the Industrial Commission.

The following graphs illustrate the percentage share of each result or outcome classification to the total closed claims in a calendar year.

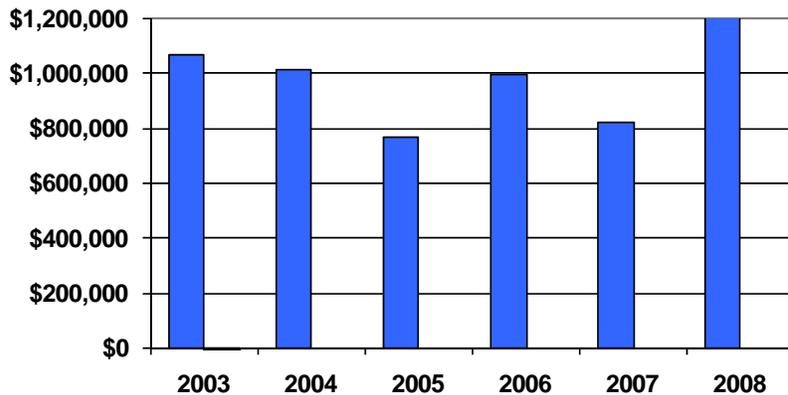
CLOSED CLAIMS BY RESULT - CALENDAR YEAR



Benefits Administration

Final settlement of claims may be accomplished through a one-time lump sum payment, periodic monthly benefits at a negotiated rate and timeframe, or statutory monthly benefits prescribed by State Code and the Carey apportionment formula.

LUMP SUMS BY CALENDAR YEAR



In CY 2008, \$3.5 million was disbursed for annuity benefits, arrearages/differential payments and lump sums. In the last 13 years ISIF has disbursed an average of \$2.3 million for annuity (including structures/arrearages) benefits and \$856 thousand in lump sum settlements.

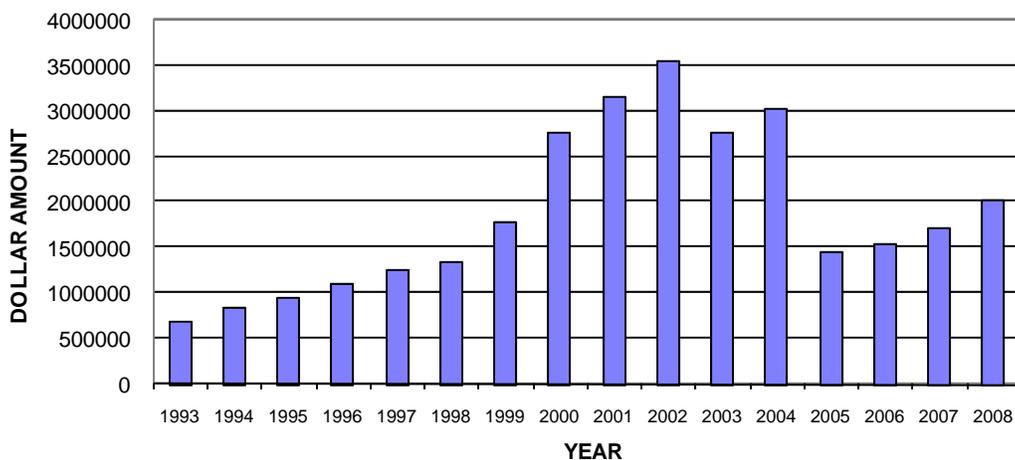
During the period of 1999 – 2004, ISIF utilized structure annuities as a means to fund future annuitant monthly benefits for a number of claimants. The average monthly benefit disbursed by ISIF, during CY 2008 was approximately \$1,500. ISIF distributed monthly benefits to over 102 annuitants, in addition 41 annuitants receiving payments from structures; with 12 of the 41 annuitants in CY 2008 received a small make-up allowance from the ISIF funds.

Life time permanent benefits decreased by nine annuitants (deceased) and increased by four annuitants based upon the ISIF entering into a settlement, or who have been awarded benefits through an Industrial Commission decision. 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 the life of the annuitant.

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.

The 143 annuitants are currently receiving a life time benefit or a small make-up benefit represent unfunded liability that has accumulated over the life of the ISIF. Some annuitants started receiving lifetime benefits prior to 1971.

ISIF ANNUITANTS PAID BY CALENDAR YEAR



During the period of 1999 - 2004, the ISIF purchased annuities to fund a number of total permanent disability claims. A certain portion of the total annual annuitant benefit paid in subsequent years was for the retirement of claims through structure annuities.

Milliman, Inc., Evaluation Life Annuity Claims

In 2005, the Industrial Special Indemnity Fund commissioned the actuarial firm of Milliman, Inc. to value the current and future life annuity claims (the "Carey" apportioned claims). Milliman has valued 112 claims, with dates of injury ranging from 1971 through 2001. Milliman, Inc is currently recalculating the claims to take into account for changes during CY 2006.

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 to File, 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 "60 day" legislation is codified as §72-334.

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.

In the last three years litigation costs have continued to increase because of fewer opportunities for lump sum settlements.

LITIGATION EXPENDITURES BY CALENDAR YEAR						
	CY 03	CY 04	CY 05	CY 06	CY07	CY08
Attorney Fees	\$243,801	\$336,118	\$422,972	\$592,978	\$583,786	\$520,663
Costs & Expenses	5,741	8,287	13,357	21,122	23,678	15,589
Medical & Vocational Reports	1,239	671	8,279	14,933	30,018	7,777
Deposition Costs	14,927	18,892	18,414	26,038	24,698	20,531
Investigations	18,278	2,655	1,606	5,782	7,289	5,116
Research or Briefs	-	-	-	-	2,414	102
Appeal Attorney Fees	5,976	19,195	1,281	-	14,278	26,926
Appeal Costs & Expenses	39	1,267	40	-	219	448
Medical Expense (IME)	600	650	13,187	1,050	675	1,486
Rehabilitation	9,362	9,607	16,362	44,152	57,355	63,850
Adjuster Expenses	17,406	13,889	5,551	1,504	1,713	1,623
Subrogation/Collection	-	-	-	-	-	-
Litigation Cost	73,568	75,113	78,077	114,581	162,337	\$143,448
Total Litigation Expenditures	\$317,368	\$411,231	\$501,051	\$707,559	\$746,123	\$664,111

LUMP SUM		LSS WITH STAT BEN		JUDGMENT LOSS		STAT BENEFITS / NO HEARING		DIS W/O		DIS W/P		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	
2002	46	66,737	2	8,115	3	43,238		0	6	61,369	1	13,768	6	135,022
2003	35	106,178	1	984	3	40,499		0	2	2,643	1	259	2	38,194
2004	34	161,926	7	54,065	2	35,928		0	4	12,190	3	23,729	4	71,204
2005	23	147,735	4	31,200	2	22,440		0	7	34,894	2643	0	5	44,500
2006	31	262,915	4	22,498	0	0		0	4	44,081	2	9,368	6	112,451
2007	26	265,657	4	26,043	8	201,602	2	14,540	9	40,006	1	14,762	12	284,180
Five Year - Total	195	\$1,011,148	22	\$142,905	18	\$343,707		\$14,540	32	\$195,183	2651	\$61,886	35	\$685,551
Five Year - Average Claim Cost by Result		\$3,823		\$5,312		\$7,895				\$4,849		\$18		\$11,468
2008	42	\$515,305	2	\$8,420	4	\$120,761	4	\$40,843	5	\$35,133	3	\$47,111	5	\$110,478
Average Claim Cost by Result		\$12,269		\$4,210		\$30,190		\$10,211		\$7,027		\$15,704		\$22,096

AVERAGE LITIGATION COST BASED UPON TYPE OF RESULT

	AVERAGE # CLAIMS	AVERAGE COST
2008	93	\$7,141

Note: Lump Sum Settlements CY 2008 - This was a particularly expensive calendar year for Lump Sum Settlements, relative to prior years. A problem with comparisons, however, when using cash basis accounting, is that it is difficult to interpret results. For example, of the 42 lump sum settlements, only four of those (totaling \$124,000) related to claims actually filed in 2008. The other 38 claims were filed in years ranging from 2003 through 2007.

Prior calendar year lump sum settlements undoubtedly had variations in filing dates vs. payment dates, but without some measure of “incurred” loss for the various years, year to year comparisons may be misleading.

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.

Revenue

ASSESSMENT TIME LINE

Assessment Date	Total Assessment	Indemnity Period	Due Date	Payment Amount
June 30, 2004	\$4,212,987	7-1-04-->	Apr-05	\$2,106,494
		1-1-05-->	Sep-05	\$2,106,494
June 30, 2005	-\$209,673	7-1-05-->	Apr-07	\$0
		1-1-06-->	Sep-07	\$0
June 30, 2006	\$519,633	7-1-06-->	Apr-07	\$259,817
		1-1-07-->	Sep-07	\$259,817
June 30, 2007	4,200,219	7-1-07-->	Apr-08	\$2,100,110
		1-1-08-->	Sep-08	\$2,100,110
June 30, 2008	7,088,188	7-1-08-->	Apr-09	\$3,544,094
		1-1-09-->	Sep-09	\$3,544,094

Since fiscal year 1998, the ISIF's annual assessment is based on 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.

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. The cash balance on hand at the end of FY 2005 was sufficient to pay FY 2006 expenses.

In 2005, based upon the assessment formula there was a negative assessment for that year. With the increase in cash expenditures in FY 2007 the assessment formula returned to a positive assessment, leaving a Total Assessment due in FY 2008 of \$4,200,219. Fiscal Year Assessment for 2009 is \$7,088,188.

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.

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

Revenue-Expenditure Calendar Year

Revenue	2003	2004	2005	2006	2007	2008
Beginning Cash Available	\$5,564,454	\$5,874,689	\$6,108,866	\$7,654,293	\$4,530,455	\$1,719,245
Levy/Interest	-	-	-	-	-	-
Assessment/Interest	4,739,081	5,035,238	4,640,211	382,220	873,159	4,474,182
TOTAL CASH AVAILABLE	\$10,303,535	\$10,909,926	\$10,749,077	\$8,036,513	5,403,614	6,193,427
Expenditure						
Administrative	\$240,383	\$221,075	\$267,218	\$254,209	261,758	259,660
Benefits						
Structure annuities	1,228,821	1,551,934	-	-	0	0
Monthly annuitant	1,572,775	1,600,382	1,558,963	1,549,723	1,834,919	2,030,052
Lump Sum Settlements	1,069,500	1,015,000	768,990	993,000	819,262	1,810,925
Litigation	317,368	411,231	501,051	707,556	749,123	664,111
Levy Refund	-	-	-	-	-	-
TOTAL EXPENDITURES	\$4,428,847	\$4,799,622	\$3,096,222	\$3,504,488	\$3,665,062	\$4,764,748
Encumbered	-	1,438	(1,438)	1,570	19308	-174
ENDING CASH BALANCE	\$5,874,689	\$6,108,866	\$7,654,293	\$4,530,455	\$1,719,245	\$1,428,507

Revenue-Expenditure Fiscal Year

Revenue	2003	2004	2005	2006	2007	2008	2009 YTD
Beginning Cash Available	\$4,613,314	\$5,208,312	\$5,227,340	\$6,795,081	\$6,066,396	\$3,046,051	\$1,452,638
Levy/Interest							
Assessment/Interest	5,497,889	4,739,191	4,861,124	2,563,650	\$602,790	\$2,676,999	\$2,223,461
TOTAL CASH AVAILABL	\$10,111,203	\$9,947,503	\$10,088,464	\$9,358,731	\$6,669,186	\$5,723,050	\$3,676,099
Expenditure							
Administrative	\$237,526	\$227,304	\$235,463	263,579	241,160	268,580	131,091
Benefits							
Structure annuities	1,727,090	1,551,933	-	-	-	-	-
Monthly annuitant	1,563,608	1,616,720	1,554,239	1,563,360	1,738,634	1,859,662	1,031,653
Lump Sum Settlements	1,080,000	943,000	1,077,500	841,490	850,318	1,423,744	781,125
Litigation	294,666	381,205	425,501	624,586	761,513	718,289	301,826
TOTAL EXPENDITURES	\$4,902,891	\$4,720,163	\$3,292,704	3,293,015.00	\$3,591,625	\$4,270,275	\$2,245,695
Encumbered/Pcard	-	-	679	(679)	31,510	(139)	(1,897)
ENDING CASH BALANCE	\$5,208,312	\$5,227,340	\$6,795,081	\$6,066,396	\$3,046,051	\$1,452,638	\$1,428,507