

Review of State Funds' Regulation and Market Concentration

To: Economic Affairs Committee Members
From: Pat Murdo, Staff

The following Table reviews 27 states, of which 25 have some form of a State Fund, defined here as an entity set up by the state as a nonprofit, independent, and quasi- public or public provider of workers' compensation insurance. In some cases these have changed to be an assigned risk pool or a mutual independent insurance company with publicly appointed members. Minnesota and New Jersey have state involvement in assigned risk pools but no state fund according to the above definition. South Carolina has a State Accident Fund that covers workers' compensation only for state employees. In some states the "state fund" is no longer state-related. Research was by phone, email, statute review, internet, and reports.

The following format reviewing the State Funds was based on questions from the committee about regulation and on issues investigated by the Legislative Audit Division in the Corporate Governance Report. States may be listed under more than one criteria or not at all if details on the heading were not found. Market share is provided as an indication of the fund's market strength, along with a Herfindahl-Hirshman Index rating, a standard measure of market concentration. See note at end.

State Fund Names

System/Type of Market

Monopolistic -- ND, OH, WA, WY
Assigned Risk -- AZ, HI, ID, MN, NJ, NM, OR
Guaranteed Market -- CA, CO, KY, LA, ME, MD, MT, NY, OK, PA, RI, UT
Not Clear -- MO, SC, WV (TX is a voluntary market - work comp is not required.)

Rating Provisions

Board sets rates subject to review or regulation by Dept. of Insurance -- AZ, CA, CO, HI, ID, KY, ME, MO, NM, OR, RI, TX, WV
Board sets rates not subject to prior review but board includes state officials -- LA, NY, OK, PA, UT
Board sets rates not subject to prior review -- MT (MD's fund sets own rates but subject to Insurance Commissioner review every 5 years)
State Agency sets rates -- MN (for assigned risk pool), ND, NJ, OH, SC, WA, WY

Regulator

Board with political appointees and by statute -- CA, ID, MD, MT, NM, NY, OK, OR, PA, TX, UT
Board under regulatory authority of the Insurance Commissioner/Dept of Insurance -- AZ, HI, ME, MO, NJ, NM, OR, RI, TX, WV
of which 8 are mutual insurers not considered a state agency -- AZ, HI, ME, MO, NM, RI, TX, WV
State Agency (not independent) -- MN (for assigned risk pool), ND, OH, WA, WY

Auditor (actuarial review, financial examinations, review of rates after use)

Examinations or audits by Insurance Commissioner/Other Exec. Branch Agency -- AZ, CA, HI, ID, KY, MD, MO, NJ, NM, NY, OH, OK, OR, RI, TX, UT
Subject to filing annual statements with legislature or governor or Dept. of Insurance -- KY, ME, MD, MO, MT, NY, OH, OK, RI, WV, WY
Subject to independent actuary or audits -- HI, MO, MT, OH, OK, PA
Audits by Legislative/State Auditor/others -- CO, MN, MT, NM, ND, OR, TX, UT, WA

Investor

Board/Company -- AZ, CA, HI, KY, MD, ME, MO, NM, OK, TX, UT
State Agency (i.e. State Treasurer or other) -- CO, ID, MN, MT, OH, PA, WA
Mix -- NY

State Funds and Regulatory Structure, Market Share

*Designates comparator states in SJR 30 Study. (See further note below.)

State Fund	Regulatory Structure					Market Share, 2007 & HHI**
	System/Type	Rating Provisions	Regulator	Auditor	Investor	
Arizona SCF Arizona (Funded by policyholders & investors. No state funds)	3-way SCF must participate in assigned risk plan but is not sole bearer of assigned risk.	<ul style="list-style-type: none"> State comp fund neither more nor less than self-supporting. A.R.S. 23-983 Sets own rates. 	<ul style="list-style-type: none"> Fund under direct supervision of 5-member, governor-appointed board, which appoints manager. Fund under insurance dept to same extent as a mutual casualty insur. ARS 23-986. Pays premiums as do private insurers. (23-1065) 	<ul style="list-style-type: none"> Director of insurance can examine state fund. Exams paid by insurance examiners' revolving fund. A.R.S. 20-156 Subj. to audit 	<ul style="list-style-type: none"> Manager of fund may lease or acquire real property. Owned property is subject to ad valorem taxes. Manager sets investment plan. 	59.5% HHI = 3,232
California State Compensation Insurance Fund	3-way, guaranteed mkt. State not liable for any obligations of the State Fund, which is part of the CA Insurance Guarantee Assn. (2% of premium), according to 2008 annual rp't.	All insurers file with the Dept. of Insurance., using a rating organization designated by the insurance commissioner §11751.4, including §11734 and §11735	<ul style="list-style-type: none"> 11 voting members on board, with 9 appointed by governor, including one from labor. Speaker and Senate Committee on Rules each appoint a member. Director of Dept. of Industrial Relations a nonvoting ex officio member. Same risk-based capital requirements as other insurers. 	<ul style="list-style-type: none"> Since 2007, subject to the Bureau of State Audit and audits by the CA Dept. of Insurance. 	<ul style="list-style-type: none"> Has own chief investment officer and chief financial officer. Provides management and oversight of \$20 billion in State Fund investment portfolio. May join state investment pool but some options limited. 	20% HHI = 972

State Fund	System/ Type	Rating Provisions	Regulator	Auditor	Investor	Market & HHI
<p>Colorado</p> <p>Pinnacol Assurance</p> <p>A political subdivision of the state but not a state agency</p>	3-way/ guaranteed mkt	<ul style="list-style-type: none"> • Board approves rates C.R.S. 8-45-103. • Rates, forms, rules, complaints, etc. are regulated by insurance commissioner • Rates cannot be excessive, inadequate or unfairly discriminatory. 	<ul style="list-style-type: none"> • 9-member board appointed by governor. • Subject to regulation by commissioner of insurance like other carriers, including for unfair competition and deceptive practices. 	<ul style="list-style-type: none"> • Annual financial audit & performance audit by the (legislative) State Auditor. Pinnacol pays. CRS 8-45-121 • Ins. Dept does financial exam every 3 years. Cost billed to Pinnacol - hourly rate. • Mkt conduct when Dept of Ins. sees necessary 	<ul style="list-style-type: none"> • For purchase of real property, CEO - subject to Board approval - may lease or rent. • State Treasurer invests funds. (C.R.S. 8-45-120) 	<p>49.2%</p> <p>(Note: CO Ins. Division says mkt share in 2007 was 57.4%.)</p> <p>— HHI = 3,416</p>
<p>Hawaii</p> <p>Hawaii Employers' Mutual Insurance Co., Inc.</p>	3-way/ assigned risk	<ul style="list-style-type: none"> • Board determines actuarially responsible schedule of premium rates • Subject to insurance code to same extent as private insurers. 368A-13 	<ul style="list-style-type: none"> • Until Dec. 31, 2007, Hawaii Employers' Mutual Insurance Co. was exempt from levy on percentage of gross premiums. Levy now on premiums in excess of \$25 million. 386-153 • Pays taxes and license fees like other insurers. 386A-2. • 5-member board initially appointed by governor then elected by policyholders. • Temporarily excluded from surplus requirements. As of Jan. 2008 to participate in insurance guaranty assn. 	<ul style="list-style-type: none"> • Independent CPA to do annual audit. 	<ul style="list-style-type: none"> • Board invests and manages income and assets. 386A-4 	<p>13.4%</p> <p>HHI = 1,203</p>

State Fund	System/Type	Rating Provisions	Regulator	Auditor	Investor	Market & HHI
<p>Idaho*</p> <p>Idaho State Insurance Fund</p>	<p>3-way / assigned risk.</p> <p>State Fund is an independent insurer that is regulated as a mutual but the policyholders do not have ownership. State is not liable for any debts of fund.</p>	<ul style="list-style-type: none"> • Manager, appointed by board, has power to determine rates (72-903) but subject to insurance code 	<ul style="list-style-type: none"> • 5-member, governor-appointed board. Includes 2 legislators. • Subject to insurance code but not a member of ID insurance guaranty assn. 72-901 • Pays premium tax of 1.5% in CY2010 to Dept. of Insurance. No federal or state income or local property tax. Premium tax paid to ID Industrial Commission - 2.5% on net premiums (but credit given). 	<ul style="list-style-type: none"> • Dept. of Insurance examines Fund. • Fund required by the Insurance Code to have outside audit every year. • Exam by Dept. of Insurance, at least once every 5 years. Paid by state fund. 	<ul style="list-style-type: none"> • State Treasurer and Endowment Fund Investment Board with direction and approval of fund manager. 	<p>53.1%</p> <p>HHI = 4,225</p>
<p>Kentucky</p> <p>Kentucky Employers' Mutual Insurance, created 1994</p>	<p>3-way, guaranteed mkt. Set up as a nonprofit, independent, self-supporting de jure municipal corporation. State is not liable for its debt. State self-insures. 18A-375</p>	<ul style="list-style-type: none"> • Manager recommends to board actuarially sound rating plans based on actuary recommendation • Rates to be filed with Exec. Dir. of Insurance as with other mutual insurers. 	<ul style="list-style-type: none"> • Subject to provisions of a domestic mutual insurance company unless otherwise exempt. 342.803 • 10-member Board with 3 cabinet secretaries and 7 governor-appointed members. 	<ul style="list-style-type: none"> • Attorney General and Auditor of Public Accounts have right to review. 342.823 and 342.843. Report to General Assembly 	<ul style="list-style-type: none"> • Manager invests under guidance of board, within statutory provisions. 342.813 • Board may use advice of the Office of Financial Management but must retain independent investment adviser. 342.825 	<p>13.2%</p> <p>KY = 1,259</p>

State Fund	System/ Type	Rating Provisions	Regulator	Auditor	Investor	Market & HHI
Louisiana Louisiana Workers' Compensation Corporation (LWCC)	3-way, guaranteed mkt LWCC is a private, nonprofit mutual insurer. State of Louisiana's full faith and credit was temporary backup for claims. 23:1404	<ul style="list-style-type: none"> Exempt from rate regulation by the commissioner of insurance. 23:1395 Required to use policies or other forms filed with and approved by the insurance commissioner. 	<ul style="list-style-type: none"> Pays premiums as do private insurers but not required to obtain a certificate of authority from the insurance commissioner. 23:1393. As soon as state fund "corporation" is on solid financial footing, it must comply with surplus/reserve and guaranty fund requirements of a domestic mutual insurer. 9-member governor-appointed board plus 3 ex officio members of which 1 is insurance commissioner and 2 are legislators. La R.S.23:1398 	Not determined	Not determined	26.2% HHI = 1,349
Maine Maine Employers' Mutual Insurance Co. MEMIC	guaranteed mkt; private mutual insurance company, created in 1993 and replaced a residual market mechanism. Not a state agency.	<ul style="list-style-type: none"> Rates developed and filed under Insurance Code. Rates within the rate-band (85% to 145% of benchmark/ pure premium rate) are voluntary - not subject to disapproval. High risk programs have criteria set in statute. 	<ul style="list-style-type: none"> Governor-appointed 7-member board (up to 9 allowed) with "full authority" §24-A.3707 Excluded by statute from participating in or benefiting from a guaranty fund. 24.3703. Rates outside a band described in statute are subject to Insurance Superintendent disapproval if unfairly discriminatory, excessive or inadequate. 	<ul style="list-style-type: none"> Reports to governor & legislature. Statistical & actuarial data to determine rates to be provided to annually to Insurance Dept., Workers' Comp. Board & Dpt of Labor. 	<ul style="list-style-type: none"> Board appoints investment manager and sets investment policy. 	33.5% HHI = 3,861

State Fund	System/ Type	Rating Provisions	Regulator	Auditor	Investor	Market & HHI
Maryland Injured Workers' Insurance Fund (IWIF)	3-way, guaranteed mkt. Independent of state government.	<ul style="list-style-type: none"> Insurance Code rating statutes do not apply to Injured Workers' Insurance Fund §11-202. Board sets rates based on analysis by an outside actuary. 	<ul style="list-style-type: none"> Governor-appointed, 9-m'ber board. Title 10 under Labor & Employment 10-110 Insurance Code applies, except for titles relating to fees, third-party administrators, and certain laws for domestic insurers. 	<ul style="list-style-type: none"> Ins. Com'sioner examines rates at least once every 5 yrs. to check on actuarial soundness. Ins. Crms has right to do market conduct exam. Annual reports to governor. 	<ul style="list-style-type: none"> IWIF handles own investment program. State has no oversight or role. 	28.3% HHI = 1,118
Minnesota Department oversees assigned risk pool. No corporate entity is a State Fund and the assigned risk plan is not a state agency.	assigned risk pool 3 (TPA) servicing carriers bear no risk but service policies and collect premiums that are put into a "state fund".	<ul style="list-style-type: none"> Department of Commerce determines rates for assigned risk pool. Rates may not be lower than in the voluntary market. §79.251 	<ul style="list-style-type: none"> Assigned risk pool overseen by Commissioner in Dept. of Commerce (which handles insurance issues) and contracts out to an administrator (currently AON), which is either a qualified insurer or a self-insurance administrator. Commissioner assesses work comp insurers an amount needed to meet obligations if assigned risk plan is deficient. 	<ul style="list-style-type: none"> Office of Legislative Auditor is watchdog over Dept. of Commerce. Commissioner required to audit the MN Workers' Compensation Assigned Risk Plan reserves and book of business. 	<ul style="list-style-type: none"> State Board of Investments invests assets of "state fund" for assigned risk pool assets. 	5.9% MN = 486

State Fund	System/ Type	Rating Provisions	Regulator	Auditor	Investor	Market & HHI
Missouri Missouri Employers' Mutual Insurance Co. - created 1994 as an independent public corporation. Is a domestic mutual insurer.	3-way Missouri Employers' Mutual Ins. Co. is not a state agency but received state start-up funding. §287-902 Assigned risk mkt managed by Travelers Commercial.	<ul style="list-style-type: none"> Board sets rates based on actuary's recommendation §287.910 Also to follow Dept of Insurance statutes. Missouri law also insurers to set rates based either on NCCI or the Dept. of Insurance recommendations 	<ul style="list-style-type: none"> Initial 5-member board appointed by governor, then elected by policyholders. Board has full authority. Subject to all provisions of statutes that relate to private insurance carriers and to the jurisdiction of the Dept. of Ins. in same manner as private insurers except as provided by the director. 287-920(5) 	<ul style="list-style-type: none"> Annual audit - independent CPA; copies filed with Dept. of Insurance, governor and gen. assembly Dept of Ins. does same exam as for insurers. 287-920. Board pays. 	<ul style="list-style-type: none"> Board sets investment policy for administrator to follow. Board may issue revenue bonds. §287.919 	10% HHI = 726 <i>Ins. Jrnl</i> reports 256 wc insurers in 2009.
Montana* Montana State Fund	3-way/ guaranteed mkt. MT State Fund is nonprofit, independent public corporation and a state agency.	Board sets rates, after consultation with external actuary.	<ul style="list-style-type: none"> Management is by governor-appointed board. Board appoints executive director. Budget must be reported to Finance Committee and Governor. 	<ul style="list-style-type: none"> Legislative Audit - annual review to ensure rates are adequate, not excessive or discriminatory Annual financial audit require. 	<ul style="list-style-type: none"> Board of Investments handles for State Fund. Investment criteria set in constitution. 	52.3% HHI - MT State Auditor lists at 4,807***
New Jersey No State Fund	Assigned risk (residual mkt), all carriers participate, based on % of market.	<ul style="list-style-type: none"> Compensation Rating & Inspection Bureau sets rates 	<ul style="list-style-type: none"> Dept. of Banking & Insurance regulates insurance carriers and approves rates set by NJ Compensation Rating & Inspection Bureau. Dept of Labor & Workforce Development handles disputes 	<ul style="list-style-type: none"> Dept. of Banking & Ins. 	Not applicable	20.8% in 2008, based on NJ DOLWD <u>figures.</u> HHI = 1,049

State Fund	System/ Type	Rating Provisions	Regulator	Auditor	Investor	Market & HHI
<p>New Mexico*</p> <p>NM Mutual set up with \$10 million of state funds in 1991 - paid back with interest.</p> <p>Essentially a private, nonprofit firm but governor appoints 5 members. Not state agency. 52-9-21</p>	<p>3-way/ Assigned risk pool is separate entity from "State Fund". Initially 2 firms were in assigned risk pool: New Mexico Mutual & Mountain States Mutual, both domestic mutual insurers</p>	<ul style="list-style-type: none"> Board approves rates that go before Supt of Insurance for approval. Rates for assigned risk pool are not same as for voluntary policies but also are subject to Supt. of Insurance approval. 	<ul style="list-style-type: none"> Employers Mutual Co. initially created as nonprofit, independent, public corp. Became New Mexico Mutual - 8 member board with board choosing 9th member as president. Governor appoints 5 board members. Policyholders appoint rest. 52-9-5. Regulated by Superintendent of Insurance, which also regulates private insurers. 	<ul style="list-style-type: none"> Supt of Insurance handles actuarial review Board to have annual audit, filed with Sup't of Insurance. 	<ul style="list-style-type: none"> Company may retain independent investment counsel. To report to board on investments. 52-9-14 	<p>13% -- NM Mutual reported 31% of vol. & assign'd risk mkt & 4.1% of mkt in 2008 <i>per premium assigned risk</i> _ HHI = 1,309</p>
<p>New York</p> <p>New York State Insurance Fund</p>	<p>3-way, guaranteed market Established under work comp §76 as not-for-profit agency.</p>	<ul style="list-style-type: none"> Not bound by rates filed by the Compensation Insurance Rating Board. Statute says to set premiums at lowest possible rates, consistent with solvency. (2003 report) Sup't of Ins. may allow deviation in accounting practices. ('08 rpt) 	<ul style="list-style-type: none"> Administered by 10 commissioners, appointed by governor. Commissioner of labor an addition to board. Commissioners appoint exec. director and top staff. 	<ul style="list-style-type: none"> Reports required to Sup't of Insurance in same form as for a mutual insurer. Sup't of Insurance may examine condition of investments, reserves. §99 	<ul style="list-style-type: none"> May borrow as specified, §27-a Commissioners set investment policies. Investments to be approved by Superintendent of insurance. §87. Custodian is Commissioner of Taxation. 	<p>29.9%</p> <p>HHI = 2,069</p>

State Fund	System/ Type	Rating Provisions	Regulator	Auditor	Investor	Market & HHI
North Dakota* State Agency	Monopolistic - handled as an agency of state government. No self-insurance.	<ul style="list-style-type: none"> • Workforce Safety & Insurance Agency 	<ul style="list-style-type: none"> • State Agency with 11-member board and head of agency appointed by the governor. • Must submit annual budget and appropriations request to Legislature but has continuing appropriations authority. 	<ul style="list-style-type: none"> • Biennial performance audit by State Auditor with report given to Governor & Legislature. 	Not determined	100% HHI not avail.
Ohio Bureau of Workers' Compensation	Monopolistic	<ul style="list-style-type: none"> • Rates adopted by bureau of workers' compensation board of directors. • Filed with the Sec. of State and the Legislative Service Commission. 4123-17-01 	<ul style="list-style-type: none"> • Regulated by the Bureau of Workers' Compensation and by statute 4121.12 • Oversight by inspector general for the Bureau of Workers' Compensation and the Industrial Commission <p>Duties listed in the following bill: http://www.legislature.state.oh.us/BillText127/127_HB_100_EN_N.html</p>	<ul style="list-style-type: none"> • Bureau to give annual actuary rept to WorkComp Council & Legislature. • Contract for external audit and actuary • Fiduciary review every 10 years goes to State Auditor. 	Bureau of Workers' Compensation Director of Investments and chief investment officer	81.4% HHI not avail.

State Fund	System/ Type	Rating Provisions	Regulator	Auditor	Investor	Market & HHI
Oklahoma CompSource Oklahoma	3-way, guaranteed mkt Legislatively created in 1933. It is a nonprofit, self-supporting, self-sustaining operation. 85-131 To be privatized no later than Dec. 31, 2010 85-131b	<ul style="list-style-type: none"> Board has authority to fix rates. 85-132 Insurance Cmsr. & Board collaborate on premium review 	<ul style="list-style-type: none"> 9-member Board of Managers includes 4 state officers, including Director of Finance, 2 members appointed by each house, 1 member appointed by governor. (pays equalization assessment and assessment for work comp administration through 1% tax on all gross direct premiums written) 85-154 Limit on administration expenses (no more than 20% of earned premiums. 85-139 	<ul style="list-style-type: none"> Audit required annually by CPA, etc. Financial statement to Gov and Ins. Coms'r Independent actuary certification annually.85-134 Insurance Commissioner may audit. 	<ul style="list-style-type: none"> Statute spells out investment activity of fiduciary for State Insurance Fund (Comp Source OK 85-138 and 138.2 Board of Managers provides plan, may set up investment committee & hire managers. 	35% to 39.8% HHI = 1,717
Oregon* State Accident Insurance Fund Corp. (SAIF)	3-way/ assigned risk. State Fund is a not-for-profit independent public corporation.	<ul style="list-style-type: none"> Rates to be filed with director of the Dept. of Consumer and Business Services. Director can hold hearing for noncompliance. 	<ul style="list-style-type: none"> Governor appoints 5-member board. Board appoints manager (pres) Subject as domestic insurer to most laws under Insurance Code (they are spelled out), including orders, enforcement, annual audit, annual financial statement, expenses of examination but not certificates of authority (and revocation/ suspension of certificates) or certain assessments. 	<ul style="list-style-type: none"> Sec. of State does annual audit & sets scope. Dept of Consumer & Business Services examines & audits at least once every 5 years. 731.300 Annual report to Governor & Legislature. 	not determined	46.8% HHI = 4,134

State Fund	System/ Type	Rating Provisions	Regulator	Auditor	Investor	Market & HHI
Pennsylvania State Workers' Insurance Fund	3-way, guaranteed mkt	<ul style="list-style-type: none"> Board prepares rates and sets premiums §1506-1507 	<ul style="list-style-type: none"> Board consists of Secretary of Labor and Industry, the Insurance Commissioner, & the State Treasurer. Advised by a 5-member council 	<ul style="list-style-type: none"> Board hires, pays for actuary to do annual independent study of fund. Board sets scope of study. Provides to advisory council. 	<ul style="list-style-type: none"> State Treasurer is custodian of the Fund. Investment by board in assets similar to savings bank investments. 	12.5% HHI not avail.
Rhode Island Beacon Mutual Insurance Co., a nonassessable mutual chartered by Rhode Island.	3-way, guaranteed mkt	<ul style="list-style-type: none"> Subject to rate regulation Exceptions for variations - but filing required. Specific statutes on surcharges for risk, with appeal to director of Dept of Business Regulation. 	<ul style="list-style-type: none"> Work comp insurers, including Beacon Mutual, appear not to be excluded from regulation by the Insurance Commissioner Director of Dept. of Business Regulation has authority to approve or disapprove rates and to determine if any rate or filing is unjust, inadequate, unreasonable, excessive, or unfairly discriminatory. 	<ul style="list-style-type: none"> Annual report. Ins. comms'r may examine, when asked by governor. 27-1-11. Director of insurance may examine. Cost is on carrier. 	not determined	59.1% HHI = 4,286
South Carolina South Carolina State Accident Fund (SAF)	not determined	<ul style="list-style-type: none"> Premiums for state agencies determined by SAF. General fund may be tapped. Form approval by Insurance Cmsr. 	<ul style="list-style-type: none"> State agency, administered by governor-appointed director. 	not determined	not determined	5.4% HHI not avail.

State Fund	System/ Type	Rating Provisions	Regulator	Auditor	Investor	Market & HHI
<p>Texas</p> <p>Texas Workers' Comp. Ins. Fund chartered in 1991 by legislature. Redesigned in 2001. Became Texas Mutual Ins. Co.</p>	<p>3-way, voluntary market</p> <p>Texas Mutual is insurer of last resort. There is no state liability and Co. is not a state agency.</p>	<ul style="list-style-type: none"> • Board sets rates based on indep't actuary recommendations . • Rates are subject to review by Texas Dept. of Insurance. 	<ul style="list-style-type: none"> • Texas Mutual operates as domestic mutual with political oversight by state. • Governed by 9-member board, with 5 (including chair) app'ted by governor; 4 elected by policyholders. • Pays taxes, fees in same manner as a domestic mutual insurer & is member of the guaranty assn. • Regulatory authority of Ins. Com's'r applies. 	<ul style="list-style-type: none"> • Company may not be dissolved. • Company files annual statements and an independent audited rpt. • Dept. of Ins. to examine Co. & Co pays costs 	<p>State has no role in directing investments.</p>	<p>22%</p> <p>HHI = 1,181</p>
<p>Utah</p> <p>Workers' Compensation Fund - a quasi-public, nonprofit corporation established in 31A-33-102</p>	<p>3-way/ guaranteed mkt</p>	<ul style="list-style-type: none"> • Board determines rates. 	<ul style="list-style-type: none"> • 7-member board, which includes Dir. of Dept of State Administrative Services. Governor also appoints 5 public directors (requirements defined). 	<ul style="list-style-type: none"> • Annual audit by national CPA firm. • Examination at least once every 5 years by insurance comm'sner. Fund pays. 	<ul style="list-style-type: none"> • Board serves as investment trustees for the fund. Exec. Dir. invests at the direction of the board. 	<p>49.8%</p> <p>HHI = 3,315</p>
<p>Washington*</p> <p>Dept of Labor & Industries, Insurance Services Div.</p>	<p>Monopolistic</p> <p>but employers with \$25 mil. in assets may self-insure.</p>	<ul style="list-style-type: none"> • Set by Dept. of Labor and Industries. Appeals to Brd of Industrial Ins. Appeals 	<ul style="list-style-type: none"> • Division of Dept. of Labor and Industries. • Dept. director in charge of operations. 	<ul style="list-style-type: none"> • Annual audit of financial statements by State Auditor 	<ul style="list-style-type: none"> • Premiums invested by State Investment Board. 	<p>75.3%</p> <p>HHI not avail.</p>

State Fund	System/ Type	Rating Provisions	Regulator	Auditor	Investor	Market & HHI
West Virginia BrickStreet Mutual Insurance Co., owned by its policyholders.	Non-exclusive state fund set up in 2006 as an employers' mutual insurance company . A monopoly until July 2008. Had federal exemption tax until 12/31/08.	<ul style="list-style-type: none"> Insurance Commissioner §33-2-21 - except that the insurance commissioner may not dissolve the Workers' Compensation state fund. 	<ul style="list-style-type: none"> Ins. Commissioner §23-1-1 Executive director hired by board of managers for renewable 5-year term. Not a member of the board of managers. Governor appoints 5 of 7 board members (other 2 are employees of the company). 	<ul style="list-style-type: none"> Review and analysis of increases of program costs greater than 5% by Governor's Office of Fiscal Risk Analysis & Management. §5-1D-1 	<ul style="list-style-type: none"> W. Va. Investment Management Board - may manage the assets of the Workers' Compensation Fund. Reports monthly to the Ex. Dir. of fund. 	58.9% - - but at the end of 2009 - 161 firms wrote work comp policies in W.Va. HHI = 9,829
Wyoming* State Agency	Monopolistic	<ul style="list-style-type: none"> Governor provides written approval of rate-making provisions. 27-9-105 describes discrimination in rate setting. 	<ul style="list-style-type: none"> Work Comp is in a Division of the Dept. of Employment. 	<ul style="list-style-type: none"> Annual eval. by qualified actuary Annual report of projected income, expenditure and account balances goes to governor & legislature. 	Not determined	96.8% HHI not avail.

*Alaska and South Dakota, both comparator states, do not have state funds.

** Market Share based on benefits paid. Estimated by the National Academy of Social Insurance, "Workers' Compensation: Benefits, Coverage, and Cost, 2007". HHI stands for the Herfindahl-Hirschman Index that measures market concentration. This number was reported in a January 2010 publication of Pinnacle Actuaries: <http://www.pinnacleactuaries.com/files/publications/pinnacleresearchbrief-workerscompensation-2010.pdf> . The article references a Dept. of Justice definition of concentration based on the numbers. A market measuring less than 1,000 is competitive. A market measuring over 1,800 is highly concentrated. In between the market is moderately concentrated.

***The Montana State Auditor's Office calculated the HHI for Plans 2 and 3 in January 2010. See: 1/10 EAC Meeting Materials, Competition, App B.