MEMIC: A Maine Miracle

20 Years of Safer Workplaces and Better Workers' Comp

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Susan Dudley Gold

Custom Communications
publisher
Saco, Maine

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Published by Custom Communications, Inc., 7 Pilgrim Lane, Saco, ME 04072
(207) 286-9295. E-mail: custom@desktoppub.com.
Website: www.desktoppub.com

Printed in the United States of America.

Library of Congress Control Number: 2012916342

ISBN-13: 978-1-892168-18-4

Design, Typography, and Setup: Custom Communications, Inc.

Photo Credits: Front cover, title page: Michael Bourque, MEMIC; back cover, pp. 96, 131, 146, 149, 151: courtesy of Maine Employers' Mutual Insurance Company, photographer Earl Dotter; pp. 12, 15, 16, 28, 42, 58: Library of Congress, Prints & Photographs Division; p. 21: © Corbis Corporation; pp. 35, 94: © Brian Peterson; p. 37 (headlines): © *Portland Press Herald*; p. 37 (image): © PhotoDisc; pp. 47, 71, 83, 125: © Don Johnson; pp. 115, 168: courtesy of Maine Employers' Mutual Insurance Company, photographer Rene Minnis; p. 126: courtesy of Scott Hannigan; p. 134: © *Best's Review*; p. 137: courtesy Maine Audio Visual Services; p. 142: Kevin Brusie; p. 157: courtesy Portland Pirates/Ron Morin; p. 185: courtesy Paul Dionne; p. 186: courtesy of Maine Employers' Mutual Insurance Company, photographer Richard Sandifer. All other photos courtesy of Maine Employers' Mutual Insurance Company.

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Acknowledgments

THIS BOOK IS A CELEBRATION of the accomplishments of Maine Employers' Mutual Insurance Company (MEMIC) over the past twenty years. It pays tribute to the vision of leaders like former Maine Governor John McKernan and members of the Maine State Legislature, the Blue Ribbon Commission, MEMIC's incorporators and directors, and CEO John Leonard. It commemorates the efforts of MEMIC's dedicated employees to carry out the company's mission, and the far-sighted resolve of Maine governors past and present to preserve reforms. It salutes the policyholders and their beneficiaries—Maine's employers and employees—for working with MEMIC to make the state's workplaces safer. The combined achievements of all have resulted in an efficient and effective workers' compensation system, lower insurance rates, better service, an improved business climate, and—most importantly—lives saved and injured workers able to return to their jobs.

I would like to thank the many people who assisted me in putting together this history of MEMIC. Without their invaluable help, this book would not have been possible.

Thanks to:

• Past and present MEMIC employees and principals and others familiar with MEMIC's story, who spent time answering questions, being interviewed, contributing e-mails, assisting in other ways, and providing stories, anecdotes, and background information—John Leonard, Jolan Ippolito, Thomas Moser, Harvey Picker (via videotape), David Labbe, H. Timothy O'Neil, P. D. Merrill, Chris Howard, Richard Clark, Meredith Strang Burgess, W. Tom Sawyer, Jane

Sheehan, Catherine Lamson, Barry Llewellyn (who provided a transcript of his 2002 Legislative Update), Lynn E. Wight, Paula Saabye, Lou Ureneck, Charles Soltan, Joe Edwards, Royce Cross, Paul Dionne, Rod Stanley, Harold Pachios, David Wyllie, Dan Cote, Robert McMann, Steven Hoxsie, and Governors John McKernan, Angus King, John Baldacci, and Paul LePage.

- Nancy McCallum and John C. Gold, who contributed to the manuscript, and researchers Jill Cournoyer and Lynn Novak, who provided a mountain of information on which the manuscript was based. Also to Jordan Brown, who spent hours helping research the MEMIC archives.
- Dean Abramson, A. M. Best, Kevin Brusie, Paul Dionne, Earl Dotter, Scott Hannigan, Don Johnson, Library of Congress Prints and Photographs Division, Maine Audio Visual Services, Rene Minnis, Brian Peterson, Portland Pirates and Ron Morin, *Portland Press Herald*, and Richard Sandifer for allowing MEMIC to use their photographs/graphics in this book.
- James Zimpritch, Allan Muir, John Marr, Gary Baxter, Donald Hale, Catherine Lamson, Daniel McGarvey, and Ashley Taylor for their expert assistance in proofing and fact-checking the manuscript.
- Kelly Barden, who took on the monumental task of obtaining the photographs for this book, proofread it, and provided other invaluable services in getting it into print.
- Michael Bourque, MEMIC's senior vice president of external affairs, for his expertise, patience, and guidance throughout the yearlong process.

Heartfelt gratitude to all.

Susan Dudley Gold

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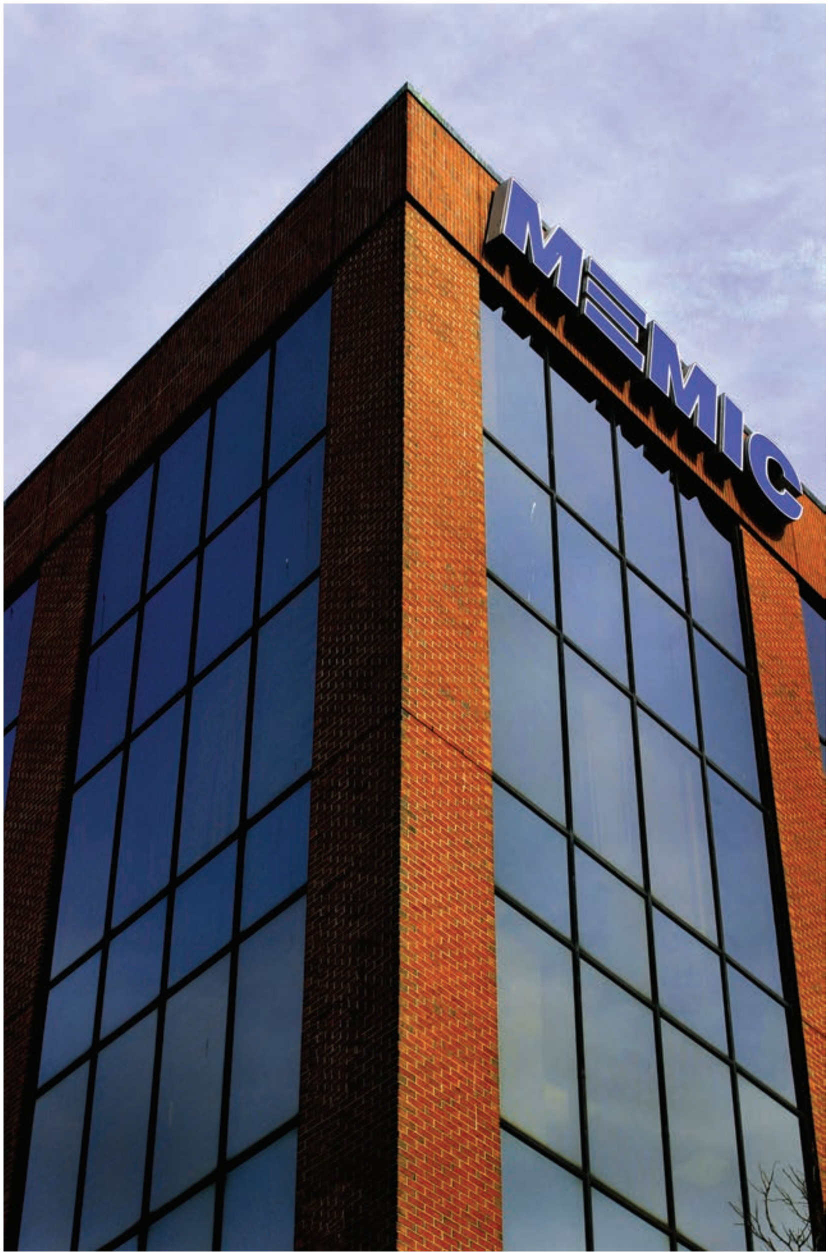


MEMIC's headquarters at 261 Commercial Street, Portland, Maine.

Prologue

The MEMIC Story

MAINE'S WORKERS' COMPENSATION SYSTEM was in crisis when the state legislature finally adopted reforms recommended by a blue ribbon commission in 1992. All but one insurance company had stopped writing workers' compensation policies for Maine's employers, on-the-job injuries were among the highest in the nation, injured employees in Maine took longer to return to work than in other areas, and costs raged out of control.

Within a few weeks' time, a remarkable board of incorporators, appointed by the governor, established Maine Employers' Mutual Insurance Company (MEMIC), a private mutual company formed to ensure that Maine employers would be able to provide workers' compensation insurance for their employees. This is the story behind the story of how this company ultimately helped stabilize the economy by changing the culture around workers' comp.

Twenty years after the creation of MEMIC, the mutual company not only has provided a cost-effective solution to the problem but also has helped to reduce workplace injuries in Maine by more than 30 percent and has focused on fair treatment for workers. Thanks in great part to MEMIC's leadership, nearly two hundred insurers are now licensed to provide workers' compensation coverage at competitive rates to Maine companies, premiums have dipped by more than 40 percent since 1993, projected losses (costs expected from future claims payments) have declined by nearly 46 percent, and modern, state-of-the-art rehabilitation programs help get

MAINE'S WORKERS' COMPENSATION LAW

Maine's workers' compensation program provides benefits for employees who suffer workplace illnesses or injuries. The benefits pay for medical services and wages lost while the employee is out of work, subject to limits set by the law. Workers covered under the workers' compensation system cannot sue employers for work-related injuries.

Under Maine law, almost all employers are required to provide workers' compensation insurance for their employees. The law does not require employers to provide workers' comp coverage for domestic servants in a private home. Employers who hire casual or seasonal laborers may be granted an exemption if they have liability insurance with medical coverage. Employers with no more than six agricultural or aquacultural laborers may also be exempt if they maintain liability insurance and medical coverage for each full-time employee.

injured workers back on the job as soon as they are able. MEMIC policyholders who implement return-to-work programs qualify for premium discounts. The company has taken its expertise in workers' compensation beyond Maine borders to practically every state in the nation. Today, MEMIC is Maine's largest workers' compensation insurer and a leader in the industry—truly a "Maine miracle," as one newspaper noted.

Chapter One

America's Workers at Risk

1600s–1960s

When settlers came to America from Europe in the 1600s and 1700s, they lived as their ancestors had: they survived through hard physical labor. They worked the land, clearing forests for farms; they raised livestock, hunted, and fished. These early settlers used simple hand tools to make many of the material goods they needed.

With the advent of the Industrial Revolution in the nineteenth century, life changed dramatically. The ability to harness energy and mass produce goods with powerful machines created enormous economic and cultural shifts. By the end of the nineteenth century many Americans had left the agrarian life to work in mills and factories. Millions of immigrants came to America to find work in the newly industrialized nation.

Unhealthy Conditions

It soon became evident that manufacturing industries presented health and safety issues that would have to be resolved. Employees worked long hours, often in difficult and unhealthy conditions. Jobs required the use of dangerous machinery, capable of inflicting great harm on the unlucky humans who operated them. Increasing numbers of workers suffered inju-

Harry McShane, a 16-year-old factory worker in Cincinnati, Ohio, lost his left arm and broke his right leg when he was caught on a belt of a machine in 1908. He received no compensation for the workplace injury.

BURNS AND FRACTURES

Dennis McGee was one of the unfortunate Maine workers of the late 1800s to be injured on the job. In November 1874 the Rockland quarryman suffered a compound fracture of his right arm and burns from an explosion at the quarry where he worked. McGee spent more than two months in the newly established Maine General Hospital (later to become Maine Medical Center), where he received treatment for his injuries. There is no record of whether he was able to return to work.

ries, ranging from the loss of limbs caught in machinery to respiratory ailments caused by dust-covered shop floors and unhealthy surroundings.

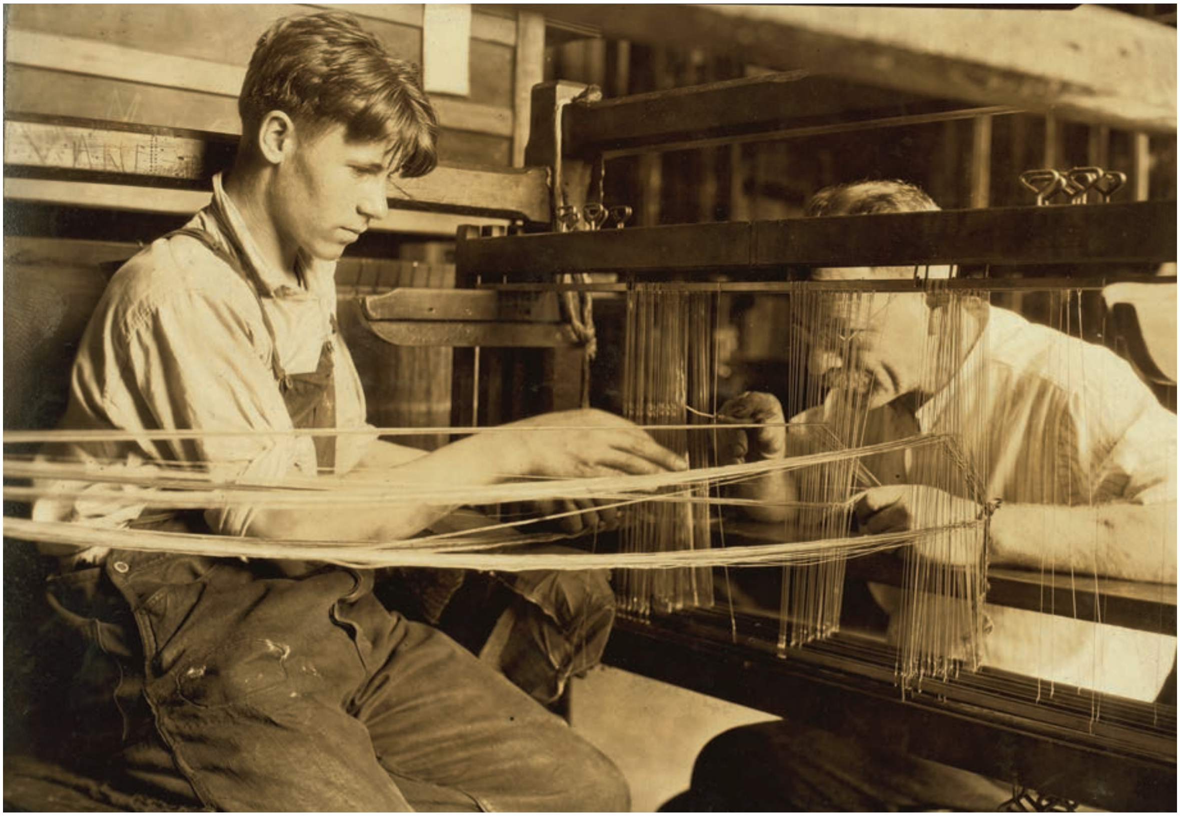
At the beginning of the twentieth century, injured Maine workers seeking compensation began filing lawsuits against their employers. Most sued for negligence under master-servant laws enacted in colonial times. The courts became clogged with such cases. A blacksmith, injured at the canning factory where he worked, filed one of the first such lawsuits in Maine in 1900. He claimed negligence by his employer led to his injuries, caused when a horse-drawn cart used to transport stones to a quarry broke. In the ensuing commotion, the horses bolted and threw the blacksmith to the ground.

Early Workers' Comp Laws

By the early 1900s states began passing workers' compensation laws that mandated the creation of no-fault insurance funds for work-related injuries. These laws were modeled after compensation laws created in Europe in the 1800s. Employment relationships had changed significantly since the days when workers were considered to have personal contracts with their employers. Europe in the nineteenth century had begun to view workers as an important resource whose welfare was a matter of public concern. To protect that resource, legislators enacted workers' compensation laws in Europe and later in America. Lawmakers were also influenced by the political reforms that grew out of such concepts as the social contract espoused by Jean Jacques Rousseau and John Locke, who viewed the people as having innate rights. America's founding fathers adopted this view when establishing a government "of the people, by the people, [and] for the people."

Workers' compensation laws established a process for paying injured employees and were intended to avoid costly, time-consuming lawsuits. Legislators also hoped the laws would expedite the payment of benefits. Under the old system, lawsuits filed by injured workers were often delayed for years. The delays allowed companies to correct or hide safety problems to avoid being found negligent, while injured employees unable to return to work faced financial hardships during the long wait for a court resolution.

Leading the effort to protect workers, Maine became one of the first states to pass a workers' compensation law. Maine's Workmen's Compensation Act, Chapter 295 of the Maine Revised Statutes for 1915, exempted employers who had no more than five workers. Also exempt were businesses whose employees worked in domestic service, agriculture, sea-faring jobs, or those who cut, hauled, or rafted logs. Although the act did not require businesses to obtain coverage for their employees, many employers chose to do so because it gave them limited immunity from lawsuits by employees. Workers receiving coverage under the provisions of the



act agreed not to file civil lawsuits against the employer for work-related injuries.

Employers did not have to make payments if injuries were self-inflicted or if employees were intoxicated at the time of an accident. The law required employers to pay for injured workers' medical expenses immediately, but workers had to wait two weeks before receiving benefits for incapacity. A partially disabled employee received compensation for each lost work day. The sum he or she received equaled one-half of the difference between the worker's pre-injury and post-injury average weekly wage. In no case could an employee receive more than ten dollars per week.

Workers at a silk factory in Connecticut in 1924 touted as having favorable conditions. Nevertheless, workers spent long hours making repetitive movements.

A young boy works on a boring machine in 1936 when state and federal laws did not protect workers from such dangerous conditions.

A worker who was totally disabled received one-half of his average weekly wage. Compensation for the loss of specific body parts was based on a set number of days assigned to each part and figured according to the worker's salary before the accident. For example, a worker who lost an index finger would be entitled to one-half of his average weekly wage for thirty weeks.

By 1916 total benefits were capped at five hundred weeks and $3,000, while partial benefits could not exceed three hundred weeks. This payment scheme, which included total and partial injuries, remained in place, with only a few changes in the formula and figures, until 1965.

Maine's Workers' Comp System

Maine's original workers' compensation act established an Industrial Accident Commission with three members. In addition, the insurance commissioner and commissioner of labor and industry served as ex officio members. The first commission received $2,000 for administrative expenses and $7,500 to pay physicians and witnesses and to cover travel expenses. The commission heard workers' compensation cases in which employers disputed the events leading to employees' claims. Employees and employers could appeal the commission's decision to the Maine Supreme Judicial Court.

Many of the first appeals focused on determining how a work-related injury should be defined. Some of the earliest cases approved by the commission included a man who suffered a cerebral hemorrhage purportedly from the exertion of a barn raising, a worker who burst a blood vessel while lifting a sack of grain, and a tugboat cook who drowned after falling from the wharf where his boat was docked. The cook's widow received the award under the act's provision that compensated family members who were dependent upon the employee for support at the time of the injury or death.

In 1977 the Industrial Accident Commission was renamed the Workers' Compensation Commission. It would become the Workers' Compensation Board in the wake of reforms passed in 1992.

The Maine State Legislature made only a few substantive changes in the act over the next fifty years, each time expanding benefits. In 1921 the rate of compensation was increased to two-thirds of the average weekly wage and the waiting period before the start of benefits was reduced to seven days. In 1945 legislators passed the Occupational Disease Law, which covered medical conditions acquired gradually rather than as the result of traumatic incidents.

The next significant changes in the act occurred in 1965, when lawmakers mandated that employers pay employees' attorneys' fees for all good-faith claims. Who was responsible for employees' attorneys' fees would become a huge source of friction between workers and employers and a major stumbling block to later proposals for reform. The state legislators also added lifelong benefits for permanent impairment and removed caps on benefits. In addition, the legislature raised benefits from $42 to almost $58 a week, equal to two-thirds of the statewide average weekly wage.

In a 1965 article about Maine's workers' compensation law written for *Maine Business Indicators*, Yale University economics professor John F. Burton Jr. concluded that while Maine had greatly increased benefits, the costs of the program remained moderate and did not harm Maine employers in the competitive marketplace. Burton compared the average cost of workers' compensation insurance in Maine and twenty-seven other states. He found that Maine's costs were the lowest.

At the time, legislators and business owners across the country—including many in Maine—called for an end to state-mandated workers' compensation systems, claiming they put an economic burden on employers. Burton dismissed such attacks on Maine's system as unfounded and said that the state's compensation laws served as a model of effective legislation. "If other states could improve their statutes as rapidly as Maine has in recent years," he said, "such attacks would soon end."

Despite Burton's optimism, confidence in the state's workers' comp system did not last long. Maine would not escape the problems experienced nationwide during the next decade, as growing costs and inefficiencies plagued workers' compensation insurance systems everywhere. Threats by insurers to leave the state would send businesses and state officials scurrying to find solutions.

Chapter Two

Legislative Battleground

1970s–1991

BY THE EARLY 1970S it had become clear that workers' compensation programs across the country had met neither the needs of injured employees nor the financial requirements of business. Most agreed on the importance both socially and economically of protecting working men and women. Implementing laws to accomplish that goal, however, was another matter.

In 1972 the Nixon administration's National Commission on State Workers' Compensation Laws issued failing marks to workers' compensation programs in most states, including Maine. The commission specifically cited the economic woes of disabled workers and outlined eighty-four areas that needed improvement.

Maine responded by expanding compensation benefits and coverage throughout the 1970s. In 1972 Maine adopted a cost of living adjustment (COLA) that raised benefits annually to reflect inflation. The following year the state removed a cap on partial benefits, extending payments over an injured worker's lifetime. In 1974 workers' compensation coverage became mandatory for all Maine employers. The Workers' Compensation Commission, whose members were appointed by the governor, administered the system. The Maine Bureau of Insurance regulated the insurance companies that provided workers' comp coverage and those businesses that covered workers through self-insurance.

Over the next few years, benefits continued to rise. By 1981 injured employees received benefits up to twice the average weekly salary of Maine workers. Maine, despite being among the poorest states in America, now offered one of the most generous workers' compensation benefits packages in the country.

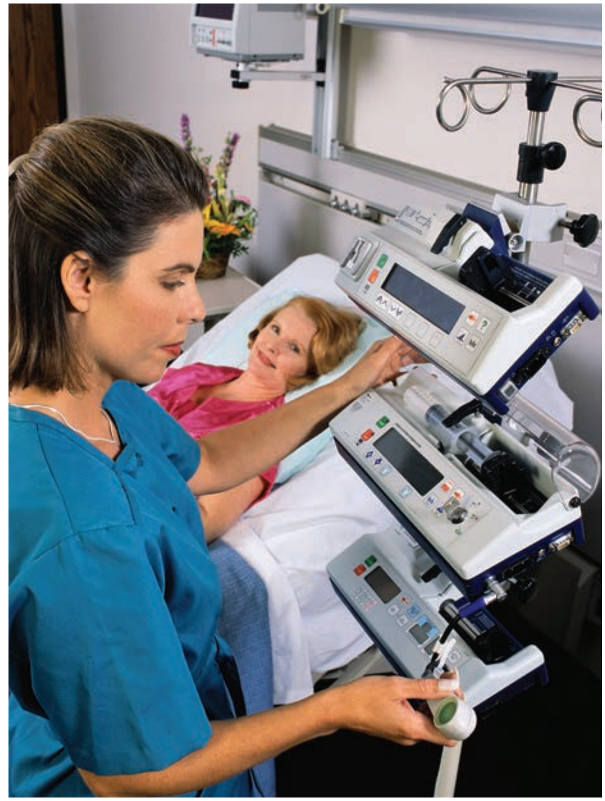
Workers' Comp Players at War

As a new decade opened, Maine's workers' compensation system began to fall apart. In its May 26, 1981, edition the *Maine Sunday Telegram* reported the division among those involved in the system: "Workers' compensation has become a legislative battleground in Augusta. Three armies are at war: employers, insurers and workers."

Once touted as a model for the nation, Maine's workers' comp system was plagued by a number of seemingly irreconcilable problems. The state was one of the most dangerous places to work. The number of injuries at Maine's workplaces increased each year, especially at high-risk jobs like logging and construction. Benefits under Maine's workers' compensation program were among the highest in the nation, as were premiums for the state's employers. Despite the generous benefits, injured workers said that they had difficulty collecting them and when they finally won approval, they had to wait too long to receive the benefits due them. With their legal fees paid for by employers, many injured workers took their claims to court. That increased the costs of the program and delayed the awarding of benefits to injured employees. At the same time, the costs of health care had begun to rise sharply, adding to the burden placed on the workers' comp system.

Businesses interviewed for the 1981 *Maine Sunday Telegram* article complained that insurance costs were "crippling." Ronald Colby, then executive director of Associated Industries of Maine, said, "The premium rates are going right out of sight. In ten years they have gone up 800 percent."

The insurance companies blamed the laws and the workers. A spokesman for the Independent Insurance Agents Association said rate hikes were necessary. "The system," he said, "is out of control. Today we are faced with easy opportunities for malingering, fraud and litigation."



Health care costs began to rise sharply in the 1980s. Above, a nurse uses high-tech machines to assess a patient's condition.

Another article about Maine's workers' compensation system in 1981 placed the blame for high costs and the adversarial climate at the feet of the legal system. An article that appeared in the March 20, 1981, edition of *Maine Times* noted that fees for attorneys representing both insurance companies and employees boosted the costs of the program. Ultimately, however, employers had to pay the bills.

The number of Maine cases that ended in litigation was staggering. In 1980 Maine and New Hampshire each had about 60,000 injury complaints. New Hampshire's Compensation Commission heard about 1,700 disputes, while Maine's commission heard more than 10,000. Under the Maine system, an estimated 10 percent of the insurance premiums paid by employers went to pay attorney fees. Critics blamed the state's workers' compensation laws, which required employers to pay employees' legal fees.

Devils Known and Unknown

In response to the increasing problems, legislators introduced fifty-three bills in the spring of 1981 to reform Maine's ailing workers' compensation system. In May the Maine House of Representatives voted to create a state-run workers' compensation insurance program to compete with private companies. Supporters claimed a state program could reduce insurance rates by 15 percent. They noted that similar programs in other states were successful. Unswayed, the Senate killed the proposal by a 16-to-13 vote. Speaking for many who opposed the plan, Senator Roland Sutton (R-South Paris) told reporters, "The devil I know is better than the devil I don't." Resistance to a state-run system would persist.

By 1982 the state had cut maximum benefits, but at 166 percent of the average weekly wage they remained much higher than the national average. For the next ten years, benefits would be frozen or reduced in an attempt to stop spiraling costs. These stopgap measures, however, did nothing to solve the underlying problems that plagued the system. In November 1984 the *Portland Press Herald* reported that many injured workers encountered long delays when filing claims for benefits. Although the number of state commissioners had increased to nine, they could not cope with the backlog of cases. As a result, injured workers often waited months for a decision on their cases.

"The delays occur despite a state law which says commissioners taking longer than 30 days to issue a decision must forfeit their salaries for each day the decision is late," the newspaper reported. "It is a law which has never been enforced." One man interviewed for the newspaper story said he had waited five months and ten days after his final hearing for a decision on his benefits.

Insurers shared in the dismal view of the workers' comp system. They sought to cover rising costs through rate hikes, but the state insurance superintendent turned down their requests for increases. Under the state laws at the time, the superintendent could either accept or reject a request for a rate increase, but he could not allow a rate hike different from the one presented. For example, if an insurer requested a 10 percent rate hike but the insurance bureau concluded that data supported an increase of only 8 percent, the request for higher rates had to be rejected outright. This meant that the insurance companies' repeated pleas for higher premiums were denied, and rates remained frozen from 1981 until June 1987.

In a national rating of the cost of states' workers' comp programs in 1982, Maine scored in the top five most expensive plans. Only West Virginia, Alaska, and Oregon spent more per employee for workers' comp than Maine did. The states with the lowest cost paid around $100 per employee per year, while Maine paid an average of $327 per employee in 1982. The average cost of workers' comp programs nationally was $180 per employee.

Maine's workers' comp problems were of such concern that almost two thousand people attended hearings on reforms in the system proposed in 1985 by the legislature. That year lawmakers changed the law so that employers paid the legal fees of injured employees only when workers won their appeals. In the past employers had to pay the legal fees of all employees who filed an appeal "in good faith" regardless of who won the case. The change represented a compromise between those who believed all employees should have free access to lawyers paid by employers and those who wanted each party to be responsible for its own attorney fees. The payment of employee lawyer fees became one of the most divisive issues in the workers' comp imbroglio that was to come.

The 1985 law mandated an 8 percent rate reduction in insurance premiums and an eighteen-month rate freeze. The measure also placed a 10 percent cap on rate increases once the freeze ended. Several insurance companies sued to stop the legislation, claiming that the rate freeze and the cap amounted to an unconstitutional taking of their property.

As the insurers' case wound its way through court, insurance companies took other measures to conserve profits and reduce costs. Several insurers announced plans to drastically cut the number of workers' comp policies they wrote in Maine. In June the state's third largest workers' compensation carrier, United States Fidelity and Guaranty, said it would refuse all new workers' comp business in Maine and would not renew most clients' policies. One week later Liberty Mutual, the largest writer of workers' compensation in the state, announced it would refuse new business and eliminate half of the policies held by Maine employers. The insurer stopped writing workers' comp policies in Maine altogether in 1987.

A Financial Bath

In August 1985 the National Council on Compensation Insurance (NCCI) reported that carriers in Maine were "paying out $2 worth of benefits and expenses for every $1 premium collected." The NCCI is a nonprofit organization that provides statistical data and rating services for insurance companies and regulatory bodies. Robert Hilton, the council's senior vice president, said insurance firms could no longer continue to carry such an economic burden. "Insurance companies are tired of taking a financial bath in this state," he told reporters, "and many insurers would just as soon pull out of the workers' compensation business in Maine completely as continue to lose this kind of money."

Part of the problem lay with the assigned-risk residual market pool, set up originally to provide coverage for workers in high-risk occupations not eligible for coverage under normal policies. Insurers shared the burden of these high-risk policyholders, whose rates reflected the high risk. The pool's operating deficit was divided among all the companies providing workers' comp insurance in Maine. The regular workers' comp policies voluntarily written by insurers were supposed to support the cost of the high-risk policies that the state required the companies to issue as the cost of doing business in Maine.

As the number of insurance companies in Maine began to shrink, however, a growing number of employers could not get workers' comp insurance and had to resort to seeking coverage from the assigned-risk pool. In 1986 the state ordered insurance companies to provide assigned-risk policies to employers after the insurers refused to offer them standard workers' comp coverage voluntarily. Eventually 90 percent of Maine employers received coverage from the pool. The insurance companies were required by law to divide the policies in the pool among themselves.

The 1985 legislation tightened regulations on the operation of the residual pool and allowed insurers to add a surcharge to policies issued to employers with poor injury records. But the measure was a case of too little too late. As insurers closed up shop and moved out of Maine, the remaining companies had to assume larger and larger portions of the debt mounting from claims filed by injured workers covered under assigned-risk policies. The losses far exceeded profits, the insurers said. M. R. Greenberg, who chaired American International Group (AIG), among the world's largest insurers, said the company received $6 million in premiums for Maine policies in 1987 and paid out $61 million to cover its share of the assigned-risk pool losses. One industry accounting firm estimated the deficits for the assigned-risk market in Maine would surpass the $500 million mark and predicted even greater losses.

More insurance companies filed for permission to leave the state in 1987 after the Maine Superior Court delivered its ruling in the insurers' case against the 1985 workers' comp reforms. On May 14, 1987, the court ruled that the legislative measures did not violate the Constitution. In his fifty-one-page opinion for the court, Justice Donald Alexander concluded that the rate freeze and cap did not amount to an unconstitutional taking of property because the insurers could avoid the effects of the law by not offering workers' compensation insurance in the state. Within weeks of the decision's announcement, more than two dozen insurance companies—foreseeing staggering losses—filed formal plans to withdraw from the Maine workers' comp market. Maine law required insurers to file at least sixty days before withdrawing from the state. Insurance superintendent Joseph Edwards delayed the devastating effects of the withdrawals by declaring that none of the insurers' withdrawal plans could become effective before December 31, 1987. Edwards approved insurers' request for a 10 percent rate hike in June 1987.

Both insurers and the employers who paid the premiums for workers' comp complained that the system was broken and was jeopardizing their bottom line. While insurers said they needed rates to double to cover their expenses, employers were pleading for reduced rates. Maine businesses still paid much more for workers' comp insurance than companies in many other states. They found themselves at a severe disadvantage when competing with firms from other areas.

According to a *Portland Press Herald* series on Maine's crumbling workers' compensation system, the state's businesses paid two and a half times the national average for workers' comp insurance—a whopping $500 million a year. The newspaper reported that several businesses had left Maine to escape the burdensome premiums and that the state's manufacturing firms paid insurance bills up to five times those paid by plants in some other states. A recession made the workers' comp situation—and the high cost of premiums—even worse, as struggling businesses tried to stay afloat. The crisis escalated during what one lawmaker called the "worst economic times since the Depression."

Workers felt the impact as well, providing further evidence that the system was failing. Those workers who did not lose jobs when strapped businesses closed down or moved away found themselves with fewer benefits. Companies delayed pay increases and cut benefits to make up for rising workers' comp expenses. With costs spiraling out of control, the legislature cut benefits for injured workers at every session.

At the same time, more and more workers suffered injuries at Maine's workplaces. Government and insurance studies showed the state had the most injuries per worker in the nation. Fourteen out of every one hundred employees suffered on-the-job injuries in Maine. Once injured, Maine workers stayed out of work twice as long as employees hurt in other states. The death rate for Maine workers also was among the highest in the nation. In 1989, according to the *Portland Press Herald*, fifty-three Maine employees lost their lives at work. "That's scary as hell," Charles O'Leary, Maine AFL–CIO president, was quoted as saying. "People should not have to go to work in fear for their lives."

In some cases, workers had no protection at all when their employers, in an attempt to save money, illegally operated without workers' comp insurance. One logger told a *New York Times* reporter in 1987 that the only way he could stay in business was to cut the state-mandated program. "We can't afford workers' comp," he said. "We just take the time not to get hurt. If we're careful, we can get by." At the time, insurers charged Maine loggers 32 cents in workers' comp premiums for every dollar of employees' salaries. Because of the high risks involved in logging, the industry paid the highest rate in Maine.

Costs for the state itself increased along with those of everyone else involved in the system. In little more than a decade, the Workers' Compensation Commission increased its budget from slightly more than $400,000 in 1979 to $4.5 million in 1989. The money went to adminis-

Logging, always among the most dangerous jobs, contributed to Maine's high workplace injury rate and rising costs for workers' compensation coverage in the 1980s and 1990s. Here, a logger gets ready to land logs in Aroostook County around 1903.

ter the system, prevent abuses, settle disputes over benefits, and perform other managerial tasks.

Legislature Takes Action

Desperate state leaders pledged to find ways to ease the situation before insurers' planned withdrawal at the end of 1989. A comprehensive study of workers' comp economics, ordered by Governor John R. McKernan Jr., revealed that the state's system was the most expensive in the nation, that its benefits were among the highest in the country, and that insurance companies lost at least $150 million a year writing policies to cover Maine workers. Massive rate increases to cover the losses would drive Maine employers out of business, McKernan knew. The only other solution was to make major changes in the system to bring down costs. Working with legislators, municipal officials, employers, and other groups, the governor developed a legislative package of reforms. The legislature considered the package at a special session in October 1987.

The resulting legislation, passed that November, attempted to balance rates, benefits, and costs. On the benefit side, the new law froze until July 1, 1989, the maximum amount of payments an injured worker could collect, delayed inflation adjustments, limited benefits for workers able to perform full-time work, set maximum fees for medical services, and revised the method of determining benefits for permanent impairments.

The law addressed the safety issue by increasing penalties for employers with high injury rates and by funding additional safety programs run by the Department of Labor. It dealt with the need to reduce insurers' losses and employers' difficulty in obtaining insurance in the regular market by setting up a new assigned-risk pool system. Under the new system, employers were required to pay a "fresh start" surcharge to cover deficits in the pool if the insurance industry failed to get a reasonable return for their entire workers' comp business in the state. In return, insurance companies agreed to provide policies in the regular voluntary market to all but high-risk employers, who would be covered under the residual pool system. The superintendent of insurance approved the first "fresh start" surcharge in 1990 after he determined that insurers had operated at a deficit in 1988. As a result, insurers attached an additional 3 percent to employers' premiums.

Lawmakers also lifted the cap on insurance rates and gave the superintendent of insurance the power to "establish just and reasonable rates" after conducting a public hearing.

The new provisions convinced seven insurance companies to cancel their plans for withdrawing from the state, but the optimism their decision signified soon shattered. With the new year came renewed struggles to find workers' comp coverage for all the state's businesses. At first only Travelers Insurance Company agreed to write policies in the voluntary market. Other companies followed, but no insurer was willing to provide service for employers located in Maine's eleven northern counties, where there were more workplace injuries and fewer low-risk businesses to offset those in the residual pool. Eventually the board that oversaw Maine's residual pool negotiated a deal that put Northern MGA in charge of servicing policies in northern Maine under a contract with AIG. As part of the deal, the negotiators agreed not to assess AIG for any liability arising from the residual pool. By 1991 three additional insurers had begun to offer policies in northern Maine, and a total of fifteen insurers were licensed to provide workers' comp insurance in the state.

Cost Out of Control

Legislators debated workers comp reforms in almost every session from 1981 to 1991, reworking the system and making more than a dozen substantive changes. After the reforms of 1987, legislators passed new legislation that imposed stricter regulations on the residual market, developed a comprehensive workers' comp database, and made other changes.

Despite the legislature's measures and employers' high premiums, insurance companies continued to face monumental losses expected to reach tens of millions of dollars. Rates continued to rise in 1988 and 1989, but state regulators approved increases that amounted to less than half the amount insurers sought. State insurance superintendent Edwards said later that he opposed the insurers' requests for higher rates because he overestimated how much the companies benefited from the 1987 reforms. In reality, he said, the insurers took in $250 million less than they paid out in claims in Maine in 1988 and 1989.

As rates rose, more employers sought to provide workers' comp coverage through self-insurance. A market that had once been exclusively for large businesses now attracted medium-sized and even small employers, many of whom joined together in industry groups to provide insurance. According to data compiled by the Maine Bureau of Insurance, the number of employers opting for self-insurance grew from forty-seven in 1987 to sixty-eight in 1990, with a corresponding rise in total premiums from $216.3 million to an estimated $350 million.

Workplace injuries and the claims associated with them continued to climb. In 1990 26,700 injured employees filed claims with the Maine Workers' Compensation Commission. In 1977, thirteen years earlier, 15,400 workers filed claims, while in 1982 those seeking benefits numbered 18,200.

In three years, beginning in 1989, the assigned-risk pool racked up a net operating loss of $574 million, according to the accounting firm reporting on the system. At one point experts predicted that the losses from the residual pool could reach $1 billion. That proved to be a gross exaggeration, but in the late 1980s and early 1990s, the estimate did not seem unrealistic. No insurance company wanted to be left holding the bag after all the other insurers abandoned the state. “Insurers want to know who is going to pay the deficit,” said Brian K. Atchinson, who filled Edwards’s position as Maine’s superintendent of insurance in 1992. “There is a great concern about not being the last one to turn out the lights.”

Comparative costs of Maine’s workers’ comp system to those in other states reinforced the conclusion that Maine’s system was way out of balance. By 1988 Maine’s workers’ comp costs had risen to $718 for every employee. Nationally, the average cost per employee was $282.

Besides being too costly, Maine’s workers’ comp system did not fill the needs of employers or of injured workers. There continued to be long delays in servicing policies, adjusting claims, awarding and terminating benefits, and arranging for rehabilitation and employees’ return to the workplace. The Workers’ Compensation Commission took, on average, eleven months to rule on major claims disputes. In cases involving benefits, employees had to delay rehabilitation and medical services. When the dispute focused on terminating benefits for workers who returned to work, insurers (and employers who paid the premiums) had to continue paying until the case could be settled.

“The whole situation was a nightmare,” said John Melrose, a consultant who served as manager of the Maine Self-Insurance Guarantee Association and later as a lobbyist for employers on key workers’ comp issues. Melrose said the system had to be fixed in two ways: reduce the cost of the system and restore the market by making it worthwhile for insurers to continue to offer workers’ comp insurance in the state. Cutting benefits, he said, was essential in bringing costs to a reasonable level.

Self-insurance gave businesses some control over costs, but it came with the always risky possibility that employers could be held liable for huge claims under the joint and several liability laws. Rigorous safety programs and policies that encouraged injured employees to return to work helped reduce expenses. However, self-insurers still had to pay the same high benefits as required of everyone else in the workers' comp system. And self-insurance was out of reach for many high-risk businesses and small firms.

Fearing that the state's workers' comp system would collapse, Governor McKernan assigned a nineteen-member task force the job of analyzing the situation and developing recommendations for reforms. Members of the task force included employers, employees, a physician, an attorney, a state safety inspector, insurance company representatives, and others in various fields. Joseph Edwards, as state insurance superintendent, served as an ex officio member. In April 1991 the task force, headed by Susan M. Collins, then commissioner of Maine's Department of Professional and Financial Regulation and later a U.S. senator, delivered its sixty-one-page report. The task force found that Maine's workers' comp system was "cumbersome, contentious, and costly and fail[ed] to serve employers and employees effectively and fairly," Collins wrote in a cover letter to the governor.

The report identified several major problems with the state's workers' comp system. Among them were the following:

- Maine's workers' comp law was too complex and difficult to understand, leading employers and employees to take disputes to court. According to the report, Maine had far more workers' comp lawsuits than other states. Attorneys participated in nearly nine of every ten workers' comp cases in Maine.
- Certain regulations caused unnecessary delays in injured workers' benefits and forced employers to dispute claims before settlement to protect their rights.

• The system allowed benefits to be paid for injuries and illnesses not predominantly work-related.

• Evidence showed overutilization of medical services, the system did not require timely medical reports, and rehabilitation efforts were expensive and often not effective in returning injured employees to the workforce. Once employees did return to work, there were no effective procedures for terminating benefits promptly.

• Workplace safety, though not the only cause of soaring costs, was often not a priority for employers and employees.

To correct these problems, the task force proposed a series of changes in the system that would do the following:

• Streamline regulations to ensure that injured workers received benefits quickly and that benefits ended promptly when employees returned to work.

• Provide benefits only for work-related injuries and illnesses.

• Beef up the rehabilitation program and develop better strategies for returning injured employees to work.

• Eliminate unnecessary medical services and require doctors to file reports promptly. The task force also suggested that the state consider appointing an independent medical examiner to resolve disputes.

• Strengthen safety programs for employers and employees and provide insurance rebates for businesses that improved their safety record.

• Provide better training for insurance adjusters and improve insurers' customer service and handling of claims.

The task force's recommendations, Collins said, were designed to reduce lawsuits over workers' comp claims, help ensure that injured workers received appropriate medical care, focus on benefits for work-related illnesses and injuries, improve insurers' handling of claims, and reward safety measures at workplaces.

In the spring of 1991 the legislature sorted through more than sixty workers' compensation bills proposed during the session. Democrats opposed cutbacks in benefits for injured workers and other changes proposed by the minority Republicans, while Republicans objected to measures backed by Democrats. Negotiations over the proposals finally broke down. Tensions escalated as insurers again threatened to stop offering workers' comp policies in Maine. In June Governor McKernan threatened to veto the legislature's budget package unless lawmakers included proposals to cut the cost of workers' compensation by 35 percent. McKernan blamed the system's high costs on unnecessary litigation, overuse of medical services, and coverage of injuries suffered off the job.

Governor John McKernan vetoed the legislature's budget and shut down the state government in his effort to force changes in Maine's workers' compensation system.

On June 30 legislators debated all day and on through the night on a proposed $3 billion budget but came no closer to resolving the workers' comp debacle. Governor McKernan showed no intention of backing down. "This is the last best chance, in my view, to actually do something on workers' comp," the governor said in an interview that ran nationwide in newspapers that included the *New York Times*. Without an agreement on the workers' comp issue and no approved budget, Maine faced the closing of most state offices.

Government Shutdown

On July 1, 1991, the beginning of the new fiscal year, McKernan made good on his threat and vetoed the legislature's one-year budget. The budget package included a workers' compensation plan backed by Democrats that did not come close to the Republican governor's cost-cutting demands. The veto left the state without funds to continue day-to-day operations. The shutdown that resulted idled more than ten thousand state workers, who were sent home without pay. People could not renew automobile registrations, apply for licenses, or buy liquor at state-run stores. Unemployment benefit checks were delayed, and state parks were closed. A cadre of about two thousand state workers provided emergency services, such as state police coverage and staffing at state prisons.

"I won't support a budget without satisfactory workers' compensation reform," a determined McKernan told the press. Meanwhile, six hundred angry state workers gathered on the steps of the State House in Augusta, chanted slogans, and hoisted signs urging lawmakers to "End the lockout" and "Free the Maine 10,000." Labor leader John Sweeney protested, "It's the first time in the 171-year history of Maine that any governor has had the heartless audacity to shut down the state in order to pander to the interests of the rich and powerful."

McKernan's action was a high-risk strategy that stunned Mainers and left them wondering who would blink first, the governor or the legislature. The governor's high-stakes gamble immediately reaped one result: it focused the attention of everyone (at least anyone who read the newspapers or listened to the nightly news) on the monumental problems of the workers' compensation system.

Amid charges of blackmail and hostage-taking, the legislature held several all-night sessions to create a new budget that would pass muster. On Saturday, July 6, weary legislators passed a two-year, $3.2 billion bud-

get, which McKernan promised to sign only if lawmakers pledged to support substantial cuts in workers' compensation costs. The governor also released emergency funds to pay state workers' salaries and reopen state government, but only until July 11.

Governor McKernan's veto of the budget left state government without funds to operate and laid off thousands of state workers.

A seven-member negotiating team made up of Democrats and Republicans worked around the clock to hammer out details of a compromise that would satisfy both sides of the workers' compensation battle. The major points of contention revolved around eligibility and benefits. Democrats, with a majority in both the House and the Senate, agreed to a compromise that would reduce benefits and cut costs but balked at a proposal backed by Republicans that would have eliminated coverage for pre-existing injuries aggravated by working conditions. Still at an impasse as the July 11 deadline loomed, negotiators broke off talks. For the first time in history, the legislature called itself into session at midnight on July 10 in a last-ditch effort to resolve the crisis. That action failed as well. At 3:30 A.M. on July 11, Governor McKernan again ordered state government to shut down—for the second time that month.

This time furious state workers set up a tent city in Capitol Park near the State House, yelled on bullhorns, and shouted at lawmakers as they passed through the hallways in the State House. The public and the media joined in hurling criticism and abuse on the governor and legislators—Democrats and Republicans alike. At the height of tourist season, bar owners and restaurants could not get supplies from closed state-run liquor stores, and the state's popular parks and beaches had no lifeguards or rangers. State workers idled by the shutdown found themselves without money to pay mortgages and other essentials.

As the state entered its third week without a budget, the legislature and the governor finally worked out a compromise both could accept. At a late-night session on July 16, the legislature passed a new budget that included $300 million in new taxes and a promise by legislators that they would reduce workers' comp costs to help offset the spending increase. As part of the deal, the legislators pledged to revamp the workers' comp system at a special session by the end of the month. Several hours later, at 3:30 A.M. on July 17, McKernan signed the budget package. Years later John S. Day, the political writer for *Bangor Daily News* at the time, said McKernan's insistence on workers' comp reform "may have been the most courageous political step in recent decades."

Push for Reforms

To meet McKernan's demands for serious savings, the workers' comp reforms developed by the legislature focused on ways to cut costs. The legislation borrowed several proposals from the Governor's Task Force on

Workers' Compensation Reform, among them provisions that reduced the system's reliance on high-cost doctors and lawyers as much as possible. While the lawmakers favored a system in which medical personnel made the necessary medical decisions, they also wanted to make sure those decisions were objective and consistent. In addition, they wanted to prevent injured workers from doctor shopping—searching for physicians who would be most likely to testify in their favor regarding their disabilities. The legislature also wanted to streamline the appeals process and limit the involvement of lawyers and the reliance on courts to settle workers' comp disputes. To accomplish these goals, the new reform package did the following:

- called for an independent medical examiner to judge workers' injuries and their ability to work and limited the number of doctors a worker could consult;
- required injured workers to look for new jobs after forty weeks;
- stopped benefits to workers who refused to accept suitable jobs;
- limited attorneys' fees in workers' compensation cases in which lump sums had been awarded;
- requested insurance companies to increase the number of workers' compensation policies they provided; or, if the companies refused, called for the creation of a state insurance program to cover workers.

The reforms benefited workers by increasing payments to a maximum of 520 weeks (up from 413 weeks proposed originally) and eliminating the proposal to discontinue coverage for pre-existing injuries. It benefited businesses by limiting attorneys' fees, requiring medical assessments by an independent examiner, and stopping payments if workers refused to take jobs once they were able.

Commissioner Collins of the Department of Professional and Financial Regulation applauded the package, saying, “I consider this a good bill that is going to reduce costs to the system.” However, no one could predict how long it would take to get the new system up and running or how long employers would have to wait before benefiting from the projected cost-savings.

A skeptical McKernan, threatening to call a special session of the legislature if the new program did not result in double-digit savings in premiums, signed the bill on July 30, 1991, the last day possible if the bill was to become law.

Committed to reducing employers’ costs, the state’s Bureau of Insurance approved a 4.7 percent cut in premiums for workers’ compensation coverage that fall. Insurance companies had asked for a 30 percent increase. Angered by the cut, the insurers again threatened in November to pull their business from the state.

By year’s end the touted reforms had failed to please any of the factions embroiled in the workers’ compensation controversy. Employers, insurers, and workers all continued to push for more radical changes. Reporter Eric Blom, in a five-part series on workers’ compensation in the *Portland Press Herald*, reflected the views of practically everyone who had anything to do with the controversy. “The Maine workers’ compensation system is a disaster,” he wrote. “It wastes millions of dollars each year. It destroys employer-employee relationships. . . . It crushes businesses with outrageous premiums. It mires thousands of injured workers in unproductive lives that spiral ever downward.”

The series also noted that years of reform efforts—often initiated at the behest of special interest groups—had not effected any positive change. The measures were inadequate, failed to address the larger issues, and made the crisis worse by creating a system too complex to be workable. The newspaper, the state’s largest, followed the series with a front-page editorial urging the formation of a blue ribbon commission to overhaul the workers' compensation system. "Throw the system out and start again," the newspaper editorial urged. The editorial writer urged readers who supported the creation of a blue ribbon commission to call the governor and legislators to voice their views. Lou Ureneck, the paper's executive editor, and Portland lawyer Harold Pachios, general counsel for the NCCI, met with Governor McKernan and legislative leaders to push the idea. "It was a controversial step for the newspaper to take," Ureneck said later of the paper's advocacy for workers' comp reforms, "but I (and the newspaper's publisher) felt the newspaper had an opportunity to provide a leadership role."

Most agreed that the state required real reform in quick order. With the system in near-collapse, state officials and businesses realized the time for political posturing and stopgap measures had long passed. They also agreed that workplace safety would have to be a major focus of any reform measures. After years of struggle, Maine was about to embark on a course that would result in dramatic changes in the state's faltering workers' compensation system.

The Maine State House dome in Augusta, Maine. In 1992 legislators passed reforms in the state's workers' comp system that led to the formation of the Maine Employers' Mutual Insurance Company.

Chapter Three

Blue Ribbon Reforms

1992

THE NEW YEAR—1992—WAS ONLY HOURS OLD when five insurance companies representing 40 percent of the private insurance market in Maine surrendered their licenses to sell workers' compensation insurance in the state. The companies included three well established insurers: Hartford, Travelers, and American Fidelity. In making their announcements, the companies cited the high cost of paying compensation claims in Maine compared to revenues collected from premiums.

Later that year, another seven smaller companies filed plans to leave the workers' compensation market in Maine. The state's remaining insurers demanded that Maine provide protection from the potential liability of millions of dollars in workers' compensation claims from employees covered by the residual pool.

It seemed that the crisis that experts had been predicting for years finally had arrived. Analysts warned that if the state did not address the situation soon, more insurers would abandon the state, eventually leaving businesses and employees without coverage for workers' compensation claims. Injured workers would have nowhere to turn for wage and medical benefits, and businesses could face lawsuits from every employee claiming injuries and be saddled with monumental expenses for attorneys' fees and court-ordered payoffs. This combination had the potential of devastating the state's economy.

In Augusta Governor John McKernan and the legislature again disagreed sharply over how to handle the crisis. A majority of the members of the legislature's Labor and Banking and Insurance committees favored forming a commission charged with designing a new plan to address workers' compensation. The governor, however, labeled the formation of a commission a delaying tactic and urged more immediate action.

"The call for further study is simply an excuse for failing to make the tough choices necessary in reforming our system," wrote McKernan in an article published in the *Portland Press Herald* on January 25, 1992. The governor suggested making changes that would reduce the benefits received by workers and also limit the number of people eligible for benefits. The Democratic-controlled legislature, led by Speaker of the House John Martin and Senate president Charles P. Pray, resisted such measures as anti-labor. By February 1992 more than 91 percent of Maine employers— 21,500 of a total of 23,500—had to get their workers' comp coverage from the residual market pool.

The *Portland Press Herald* continued to publish editorials calling for the formation of a blue ribbon committee to reform the workers' comp system. On March 3, 1992, the House Labor Committee joined the chorus for a commission to draw up a plan to replace the current system. McKernan publicly supported the idea, but he also urged the legislature to pass temporary measures to lower costs immediately until the commission could deal with the situation. In mid-March McKernan submitted his package of immediate changes to the workers' comp system. Among other items, the proposed reforms called for reducing the wages of injured workers to 60 percent of their pre-injury level, making injured Maine workers among the lowest paid in the nation. McKernan's package also made it harder to qualify for benefits, limited access to medical services, and cut the length of time injured workers could receive benefits. Members of the House rejected the governor's package, but on March 18 they voted 113 to 3 to create a blue ribbon commission to address the crisis.

Tough Assignment

The panel, officially named "Blue Ribbon Commission to Examine Alternatives to the Workers' Compensation System," had a tough assignment: find a solution to the workers' compensation problem by summer's end, five months away. The Senate followed the House's action with a unanimous vote in favor of the panel. Senate president Pray, a Democrat from Millinocket, praised the decision to turn over the reforms to a nonpartisan commission. Because of the recession and the economic challenges it posed for state government, the 115th legislature operated during "one of the most politically contentious eras in state history," the *Bangor Daily News* reported. Pray said that moving workers' comp "out of the political arena" in the midst of all the turmoil would be remembered as one of the legislature's finer accomplishments.

Two weeks later, on April 4, Governor McKernan named four members to the panel:

- Richard Dalbeck, 62, of Cape Elizabeth, a retired Unum Corp. executive;
- Harvey Picker, 76, of Camden, dean emeritus of Columbia University's graduate school of Public and International Affairs;
- Former U.S. Senator William Hathaway, 68, then serving on the Federal Maritime Commission; and
- Former Maine Supreme Court Associate Justice Elmer Violette, 71, of Caribou.

HARVEY PICKER: ELDER STATESMAN EXTRAORDINAIRE

Fresh out of Harvard Business School with an MBA, Harvey Picker was just 22 when in 1938 he joined his father's business, Picker X-ray, one of the world's leading manufacturers of x-ray equipment. Thus began a remarkable professional life that won Picker recognition as an inventor, physicist, business leader, educator, philanthropist, and MEMIC board member. Not to mention his stint as Maine boatyard operator.

During World War II, Picker's firm developed x-ray equipment that could be used on the battlefield and was rugged enough to be parachuted into battle zones. After the war, Picker X-ray sent a $3 million check to the U.S. Treasury, the estimated amount of profits the firm earned from its invention during World War II. The Pickers—father and son—took the action because they said they did not want to profit from the war. The younger Picker also contributed to the war effort by joining the Navy and working with a team of physicists at the Massachusetts Institute of Technology to develop a secret radar system.

Harvey Picker added considerably to advances in the field of radiation after he became president of his father's firm in 1946, a post he held until 1971. Under his leadership, the company developed radiation treatment for cancer, nuclear imaging, and ultrasound for oceanography, which later was adapted as a medical diagnostic tool.

In 1971, at the age of 55, when others might have been looking forward to a comfortable retirement, Picker sold the family business and shifted to a career in higher education. During this time, his wife, Jean S. Picker, served as a delegate to the United Nations and later became senior adviser to six U.N. delegations. After a year of teaching at Colgate College, Picker became dean of Columbia University's School of International and Public Affairs, a position he held for eleven years.

Harvey Picker in the 1990s.

His next career step came in 1982 when he and his wife moved to Camden, Maine, and bought the Wayfarer Marine boatyard, which he operated. In his spare time, Picker helped found the Mid-Coast Forum in International Affairs in his adopted state and led a fundraising campaign to expand the Camden Public Library. In 1986 he and his wife founded the Picker Institute, a nonprofit charitable

organization dedicated to patient-centered care. The idea behind the foundation came from Jean Picker's experience as a patient after she developed an incurable infection of the head and neck. She died in 1990. Surveys developed by the institute to assess patient satisfaction are used worldwide as a standard measurement of patient care.

After a stint on the Maine Health Care Finance Commission, Picker was appointed to the Blue Ribbon Commission to overhaul the state's workers' comp system. He later was an incorporator and a member of the board of directors of Maine Employers' Mutual Insurance Company.

Picker lived for ninety-two years, during which he embraced a dizzying number of causes and undertook complex and controversial assignments including the task of repairing Maine's crumbling workers' comp system. Reflecting on his many projects, he once observed, "Identifying problems and solving them was the most fun a person could have other than sailing along the Maine coast on a sunny September afternoon."

A few days after the announcement, Violette resigned from the panel, citing health reasons. He was replaced by Emilien A. Levesque, 69, of Farmingdale. Levesque, a Democrat, had served as chief of the Maine Labor Department and was a former director of the Bureau of Military and Veterans Services.

Although the commissioners were prestigious in their own fields, they—with the exception of Dalbeck—had little knowledge of insurance. "I said, 'The only thing I know about workers' compensation is what the words mean,'" related Picker. "Governor McKernan said, 'You qualify.'"

Despite their lack of experience, the commissioners set out to create an entirely new system to replace the one that had all but collapsed. They heard testimony from business organizations, the insurance industry, organized labor, and other special interest groups. They also hired a consultant on workers' compensation issues to advise them.

"The state was in terrible trouble," recalled Picker. "Insurance companies were leaving—only five remained of the sixty insurance companies that had once operated in Maine, and four had announced plans to leave at the end of the year. Maine businesses couldn't get workers' compensation insurance at rates that allowed them to be competitive. It was a tremendous threat to the Maine economy."

By May 1992 the panel had issued a preliminary report recommending that the state adopt a workers' compensation system similar to one used in Michigan. The panel selected the Michigan plan as a model because it offered safety and injury prevention programs, encouraged collaboration between workers and employers, and supported a more cooperative atmosphere in resolving claims.

More Withdrawals

While the commission continued its research, the insurance industry became increasingly unhappy with the situation. In July 1992 Commercial Union Companies—one of three large companies still providing workers' comp insurance in Maine—announced it would withdraw from the state at the end of the year. Shortly afterward a second large insurer, Maryland Insurance Group, followed suit, saying it would no longer operate in Maine after December 31. The third primary company offering workers' comp insurance in Maine, Hanover Insurance, announced it, too, would leave the state by year's end unless reforms were made in the workers' comp system. The insurers still offering workers' compensation insurance in the state proposed that taxpayers pay more than $500 million to cover costs incurred by the residual market pool over the past four years.

At the end of August—right on schedule and not a moment too soon—the Blue Ribbon Commission unveiled its plan for the state's workers' compensation system. Its provisions included a cut in injured workers' maximum weekly benefits from $536 to $441 and a reduction in the amount of time benefits could be collected from 520 weeks to 260 weeks for all but the most seriously injured workers. The proposal, the commissioners said, would reduce the cost of the workers' compensation system by 12 percent and would provide benefits no lower than the U.S. median.

In its report, the commission said the legislature's most recent changes had resulted in a benefit package for Maine's injured workers that more closely resembled benefits in other states. Before the changes, Maine workers injured on the job had received one of the most generous benefit packages in the nation. Maine still provided comparatively higher benefits in two areas: the maximum amount injured workers could collect each week and the length of time they remained eligible for benefits, especially those who had relatively minor impairment. Maine workers who suffered severe injuries and faced permanent disability received benefits comparable to workers in other states.

The report also noted two features of the Maine system not present in the programs offered in most of the rest of the country. Few states required employers to pay the attorney fees of injured workers as Maine did. And unlike most other states, Maine did not allow employers in certain circumstances to alter or terminate employees' benefits without first gaining the approval of the Workers' Compensation Commission.

More than that, however, set Maine apart from the rest of the nation when it came to workers' comp. The commission reported that Maine employees applied for benefits more often and collected payments longer than did employees in other states. The report did not specify why this occurred but listed several theories to explain the situation:

- Maine employers did not institute adequate safety measures and did not help injured employees to return to work.
- Insurers did not handle Maine claims properly.
- Procedures followed by both the Workers' Compensation Commission and the courts to resolve disputes exacerbated costs and lengthened the time workers collected benefits.
- The state had developed a "workers' compensation culture" that encouraged workers to use the system longer and more frequently than in other regions, even when they did not need assistance.

Avoiding placing blame on any one segment of the workers' comp system, the commission called on everyone involved to join together to work toward a solution. "What is needed," the report said, "is a major change in attitude, coupled with the adoption of a benefit structure and an administrative process that will permit the system to operate in a manner that meets the legitimate needs of the people of Maine."

The commission proposed changes in a number of areas. First, the Workers' Compensation Commission would be replaced by a work-

WHEN WORKERS' COMP IS BROKEN

With Maine's workers' comp rates the highest in the nation and insurers threatening to discontinue coverage altogether, the state's businesses and workers faced a monumental crisis. If the system collapsed, as some predicted it would, it would be the first time a state's workers' compensation program failed since such benefits were set up in the early 1900s. Employers and everyone else foresaw disaster without workers' comp.

Richard Dyke, then owner of J. R. Maines, a manufacturer of wood parts in Naples, said he would have to close down if the company could not get workers' comp insurance. "I wouldn't expose myself to that kind of personal liability, nor would I expose my workers to the risk," he told a *New York Times* reporter in August 1992. Higher premiums would likewise threaten his business. Workers' comp premiums already cost him $12 for every $100 in salary he paid each of his thirty employees.

Even with sky-high rates, insurers could not meet the costs of participating in Maine's workers' compensation system. Orin Kramer, a New Jersey economist specializing in insurance, said insurers in Maine had the worst losses in the country. For each $100 they collected in premiums, they had to pay out $148 in claims. Some critics disputed those figures, claiming that insurers inflated costs and operated inefficiently.

Nevertheless, no one could dispute the rising costs of workers' compensation in the state. A five-year study commissioned by Hannaford Supermarkets compared workers' comp costs in three states and found Maine's costs per claim were 2.6 times higher than those in New Hampshire and 3.4 times higher than Vermont's.

Maine's high costs resulted in part from benefits that were among the highest in the nation. Despite this, employees hated the system as much as employers. The regulations caused a rift in relations between management and labor and forced both sides to hire lawyers to resolve cases that took months and sometimes years to settle. Patrick A. McTeague, the lawyer for the Maine AFL–CIO, said the current system provided no incentive to improve safety on the job or to help injured employees return to work.

Employees as well as employers suffered when workers' comp costs forced businesses to leave the state. The Maine Mariners Hockey Club, a farm team of the Boston Bruins, moved its operation from Maine to Rhode Island after five seasons in Portland, in part because of the high cost of the state's workers' comp insurance. Ed Anderson, the hockey team's chief executive, said it cost the club $11,000 a year to insure a player earning $60,000 in Maine; workers' comp insurance for the same player in Rhode Island cost $6,500.

ers' compensation board made up of four representatives from labor and four from management. Under the new structure, the board would have "total control over the operation of the system," with the ability to deal with problems quickly. It would oversee the operation of Maine's workers' compensation program and be responsible for resolving disputes over workers' claims. A two-step process allowed the board to address disputes first through informal conferences, troubleshooting, and mediation. Formal hearings, overseen by hearing officers appointed by the board, would settle unresolved disputes.

Second, the commission called for changes in benefits for injured workers. Weekly benefits would be reduced to 90 percent of the statewide average weekly wage, and benefits would shift in favor of employees with serious injuries and away from less seriously injured workers. Those with impairments affecting more than 15 percent of the body would have no cap (the current cap was set at 520 weeks) and could receive benefits for life or as long as they were out of work. A cap of 260 weeks of benefits would apply to employees with permanent impairments of 15 percent or less of the body (reduced from 520 weeks). In cases where the cap caused a real hardship, the board would have the power to extend benefits. In Maine, workers took on average more than 160 weeks to return to work after a major permanent partial injury. The nationwide model in such cases was based on a healing period of 36 weeks.

The commission eliminated scheduled increases for inflation in death and permanent disability benefits and limited death benefits to 500 weeks. The proposal extended the waiting period for benefits from three to seven days. In addition, the new plan required injured employees to pay for their own lawyers, a major sticking point in previous attempts to revamp workers' comp. Under the system then in place, employers were responsible for paying workers' lawyers' fees when employees won their cases.

The commission's report also called for essential changes in the workers' compensation system itself, including the following proposals:

- replacing the current medical fee schedule with one in use in Michigan. The commission estimated that the change would save 5 percent to 10 percent in medical costs.
- adopting new methods to resolve disputes in order to reduce the number of lawsuits;
- setting up a statewide system of independent medical examiners, who would evaluate injured workers;
- giving employers the power to end some benefits for employees ruled fit for work.

One of the most significant changes proposed by the commission was the creation of a privately run mutual company that would take the place of the residual market pool for high-risk businesses. The company would be required to cover the insurance needs of businesses that did not self-insure and that could not purchase workers' compensation insurance from private insurers. The new mutual company—to be named Maine Employers' Mutual Insurance Company (MEMIC)—would be owned by the businesses that it insured rather than by commercial insurance companies. The employers in the residual market would thus be in charge of making their insurance system self-supporting. The mutual company would operate in the market along with private insurers and by doing so help to keep rates competitive. Because the majority of Maine's employers had been forced into the residual market, the mutual company, the report said, would be "in a position to significantly influence rates in the entire market."

The new system, the commission said, would allow the state to provide "substantial protection" for injured workers at an "affordable cost" to employers. How well those goals were achieved, however, depended on the entities carrying out the proposals—key among them, the labor-management Workers' Compensation Board, employers and employees, and the new mutual company MEMIC. Furthermore, if Maine could reduce the number of injury claims to Michigan's levels, the commission noted, costs for workers' compensation could be reduced by as much as 30 percent.

Mixed Reviews

The report received mixed reviews. A group representing injured workers criticized the proposal for reducing benefits. Several organizations questioned whether the plan would provide much in the way of savings. A business and labor group examined the report and found some technical problems with the plan but otherwise endorsed the majority of the proposals. By the end of September the Maine Workers' Compensation Group, an organization made up of representatives from labor and management, had given qualified support to the commission's plan.

By this time the Blue Ribbon Commission's reform package had gone to the legislature, which proposed several amendments to the plan. This angered Governor McKernan, who accused Democratic lawmakers of violating an agreement to vote on the reform package without any changes. McKernan threatened to veto an amended version of the report. The legislature's amendments dealt with a variety of issues, among them proposals that gave veterans special considerations, that recalculated maximum benefits levels, and that instituted privacy and legal safeguards for injured workers.

Democrats argued that the amendments followed the intent of the proposed reform package. McKernan disagreed, saying the changes reduced the savings sought by reforms. After a series of heated debates in which Democrats and Republicans hurled various accusations at each other, party leaders agreed to send the amendments to the Blue Ribbon

Commission for review. If the commission agreed with the changes, the governor said he would approve the legislation.

On October 5 the commission rejected some amendments including one to increase the maximum weekly benefit and one that would have made it easier for veterans to qualify for benefits based on pre-existing conditions. The commission accepted other amendments, including one that made it easier to conduct research on the workers' comp system. Later that day the House voted 107 to 40 in favor of the reform package. Early the following morning, the Senate passed the reforms by a 26-to-7 vote.

Support for the measure was strong enough to pass it as emergency legislation, which meant it could go into effect immediately. Otherwise, the law would have become effective ninety days after the vote. Emergency legislation requires a two-thirds vote in the House and the Senate. Several Democrats—who traditionally supported labor—opposed the bill because they objected to the cuts in worker benefits. Senate president Pray and Speaker Martin both voted against the bill but neither lobbied against it. Many other Democrats, however, voted for the legislation. Almost everyone—Republicans and Democrats—supported the provisions to create MEMIC and set up the new Workers' Compensation Board, and even pro-labor legislators recognized the urgent need for reforms. The only other choice, NCCI attorney Harold Pachios commented later, was to "go back to disaster."

Among Democratic supporters was a young state senator from Bangor named John E. Baldacci, who would later serve as U.S. Congressman from the Second District and in 2002 won election as governor of Maine. As a small-business owner, Baldacci said he shared the frustration of other employers faced with rising premiums. Although he expressed some reservations about the amended proposals in a speech on the floor of the Maine Senate, Baldacci urged fellow lawmakers to give the Blue Ribbon Commis-

The Maine House of Representatives chamber in Augusta. Legislators voted in October 1992 to adopt reforms proposed by a blue ribbon commission to address failings in the state's workers' comp system.

sion's reforms a chance. The commission's proposals, he said, represented a significant improvement over the workers' comp system as it existed then. "This may be one of the last times," Baldacci said, "that [the legislature would] have the opportunity to make significant improvements in the system."

On October 7, 1992—just six months after the formation of the Blue Ribbon Commission—Governor McKernan signed the new workers' compensation scheme into law.

Nine Incorporators

The Maine Employers' Mutual Insurance Company was officially incorporated on November 13, 1992. With the passage of the reforms, Governor McKernan appointed the nine incorporators who would launch MEMIC. The incorporators, whose appointments were approved by the legislature's Banking and Insurance Committee, represented both small and big businesses:

- Guy Vigue, a member of the Yarmouth Town Council and a card and gift shop owner;

- G. Melvin Hovey of Presque Isle, chairman of the board of Maine Public Service utility company;
- Jolan Ippolito, vice president of corporate affairs, Sunday River Ski Resort in Bethel;
- Helen S. Dudman of Dudman Communications, a group of family-owned radio stations in Ellsworth;
- David M. Labbe, chief financial officer, Kittery Trading Post;
- Peter Chapman, president of Paris Farmers Union;
- Sharon M. Hanley, personnel officer at Camden National Bank;
- Jody Lavoie, a manager at Wolf Construction in Limestone;
- Thomas F. Moser, president of Thos. Moser Cabinetmakers in Auburn.

McKernan followed the MEMIC appointments with eight nominees to the Workers' Compensation Board, the panel that would oversee the new system. The new law required that four of the board's members represent labor and four be from management. The following July the board hired James H. McGowan as executive director to run the agency. (The composition of the board was changed in 2004 when the legislature voted to reduce the panel to seven members, with three representatives each from labor and management and an executive director who could cast a tie-breaking vote when necessary. The change was made after labor and management members continually voted separate blocs, which made it impossible for the board to take action on important matters.)

In the space of less than one year, Maine had faced a potentially disastrous workers' compensation crisis and developed what promised to be a cost-effective solution to the problem. Businesses, workers, unions, and legislators watched and waited to see whether the MEMIC incorporators were up to the challenge.

Top: MEMIC employees take a break at a "Western Day" picnic at company headquarters, 207 Larrabee Road, Westbrook. MEMIC operated at the Westbrook location from January to September 1993.

Bottom: Office building at 261 Commercial Street, Portland, Maine, where MEMIC moved its headquarters in September 1993.

Chapter Four

MEMIC's Creation

October 1992–January 1993

The workers' compensation reforms approved by the Maine State Legislature and Governor John McKernan established a board of incorporators and set January 1, 1993, as the first day of operation for the new Maine Employers' Mutual Insurance Company. The lawmakers authorized the new company to borrow up to $5 million to finance the start-up.

At their first meeting in the fall of 1992, the MEMIC incorporators learned what they were up against. The legislature expected them to create a brand-new company capable of issuing what could be as many as 23,000 policies in less than two months. The incorporators looked around the conference room at the Pierce Atwood law firm in Portland, which had been retained to provide legal advice for the company, and saw their only assets: the Blue Ribbon Commission's amended plan and each other.

"We didn't own a pencil or a piece of paper," said the board's attorney, Christopher Howard of Pierce Atwood. "We had no staff, no capital, no systems, no business plan. It seemed like a Herculean task."

For a different group, the monumental hurdles would have been overwhelming. Many thought the board would never be able to accomplish its awesome task. "The general perception in the business and insurance communities," said Howard, "was that we would fall on our face." The incorporators, however, were business people who had experience in getting things done. While privately they may have had their own doubts, they undertook the job immediately without wasting time questioning whether it could be done.

And there was not a minute to waste. The nine incorporators began a grueling series of meetings during which they developed the company's mission and values and set up an operational structure.

The members, all of whom held full-time jobs, met in the late afternoon several times a week and on Saturdays at the offices of Pierce Atwood. Munching sandwiches and cookies, they often worked late into the evening, sometimes attending early-morning meetings as well. During the first six weeks, the incorporators gathered at 1 P.M. and worked until 7 or 8 at night, five days a week. Jolan Ippolito, an incorporator and later chair of MEMIC's board of directors, remembers that period as "a frantic, energizing time. We did so much all the time," she said.

Beliefs Kept Board On Track

What kept the group going was each person's conviction that Maine's workers' comp system had to be reformed. "We were exasperated with the system and knew it wasn't working well," said Ippolito. "Maine was left without insurers to cover workers' comp. With that as a backdrop, we felt we had no other option but to get something up and running."

Chris Howard, who at times spent up to one hundred hours a week on the job, recalled an incident that highlighted for him not only the time required to put the reforms in place but also the reason the board was willing to devote so many hours to the task. The board met in the large conference room on the seventh floor of the Pierce Atwood offices. That morning—it was a Saturday—before the board met, the law firm held a

MEMIC'S MISSION

The mission of Maine Employers' Mutual Insurance Company is to improve Maine's economy by providing safety training services and the best workers' compensation insurance products at the lowest possible cost while promoting fair and equitable treatment for all workers.

Christmas party for its employees' children in the conference room. Howard's young children attended and spent time with their father—a rare occurrence—in the building "where Daddy lived." As the children toddled out of the room and the incorporators filed in, the contrast between the groups was stark. "These kids were Maine's future," Howard said, "and it became clear that Maine's future rested on our shoulders."

The people chosen to serve on the board came from various segments of the Maine economy, from construction to banking. Most were employees; only a few owned their own businesses. One thing they had in common was their lack of experience with the insurance industry. "We knew nothing about insurance," director Thomas Moser recalled. "If we had known what workers' comp was all about, we probably wouldn't have touched it."

Moser, one of the longest-serving members on MEMIC's board of directors, said the naivete of the incorporators regarding workers' comp served the members well. "This was our first strength," he said. Reliance on the old way of doing things had brought the entire workers' comp system to its knees. The inexperienced board, not familiar with the traditional approaches, looked for fresh solutions to the dilemma facing the state.

“We were determined to set up an anti-insurance insurance company,” said Moser. “This would be a different kind of place, not like any you’d find in Hartford, Connecticut.”

The incorporators rolled up their sleeves and set to work. They relied on Howard for expertise on workers’ compensation. The lawyer had drawn up a white paper on workers’ comp problems for Pierce Atwood clients the year before. Harvey Picker, a member of the Blue Ribbon Commission and at 76 the group’s “elder statesman,” contributed the political and economic background of workers’ comp in Maine. The insurance actuarial and consulting firm of Milliman & Robertson provided the board with valuable information on workers’ comp and insurance industry operations.

To accomplish everything in the short time available, the group split into committees to handle different tasks. These included finding office space for the firm’s headquarters, hiring a CEO, and developing a data processing system and claims management policy. Although none of the incorporators had worked in the workers’ comp industry, they all had experienced the effects of the system on their businesses. Almost immediately, the group realized they would have to control losses and manage claims more effectively for the new company to succeed.

“We wanted to put 5 percent of premiums into loss control (safety programs),” Moser said. “Nobody had ever done that before. But that showed that we would be different.”

In addition, the incorporators set as their core goals better medical care for injured workers, lower medical costs, a reduction in the involvement of lawyers, and the return of injured employees to the workplace.

Finding Funding

Once the incorporators had identified the company’s mission and goals, they turned their attention to urgent nuts-and-bolts matters. How to fund

ROLLING UP THEIR SLEEVES

As MEMIC's incorporators convened their first meeting, attorney Chris Howard wondered how they would do in their "potentially paralyzing" assignment to fix the Maine workers' comp system. "There was hardly a minute of hesitation," Howard later recalled. "They just tore right into it, rolling up their sleeves and getting to work."

The incorporators all shared an entrepreneurial spirit. Each member brought his or her unique character to the mix. Jolan Ippolito exhibited boundless energy and enthusiasm and kept things moving. Thomas Moser served as an iconoclast who made people think about what they were doing. David Labbe, the ultimate realist, provided pragmatic solutions to financial questions.

There may have been occasional disagreements, but never unpleasantness. "They were always enthusiastic," Howard said of the group. Although all had strong personalities, the incorporators never got bogged down in power struggles. There simply wasn't time.

"They had a socioeconomic imperative to achieve their objective," said Howard. "There was no gold or glory; there was nothing to be gained by anyone on the board. There was only one reward—establishing a successful company that could handle the state's workers' compensation needs—and that reward could only be obtained by working together."

the new enterprise became the number one priority. The legislature had promised a $5 million loan to finance start-up costs for the new company, but lawmakers never appropriated the money. Instead of wasting time waging the political battles necessary to obtain the loan, the incorporators decided to raise their own capital. Using their contacts in the financial community, members of the board sought bids from banks to handle MEMIC's cash management services. As part of their bids, the financial institutions were required to offer a $500,000 line of credit.

"They were all obviously interested in offering investment proposals, but we didn't have anything to invest yet," David Labbe, CFO of Kittery Trading Post and chair of MEMIC's board of incorporators, said at the time. Fleet Bank won the bid, offering a $1.5 million line of credit.

The infant company also needed to build a capital reserve that would be used to pay claims and provide financial stability. Because the company would have few claims during its first months, it could use premium money to cover operating expenses initially. But eventually some of that money would have to be used to pay injured workers' benefits.

Labbe recalled a conversation he had late one evening with Fred Fossa, a partner in Milliman & Robertson. The two men came up with a unique way to help fund MEMIC: charge policyholders a surcharge that would go toward building the company's surplus. The extra fee would be viewed as an investment in the state's workers' compensation program and would be repaid when the company had reached its financial goals. The proposal turned out to be a brilliant solution. Not only did it put MEMIC on solid financial ground much sooner than would otherwise have been possible, it also directly involved policyholders in the welfare of the company. With the payment of the capitalization surcharge (albeit involuntary), employers invested more than just their premiums in MEMIC.

The board adopted the scheme, voting to charge policyholders a surcharge equal to 15 percent of their premiums. “This strategy turned into an incredible loyalty program and a tremendous marketing tool once we started returning the capital back to the policyholders,” Labbe said.

In the beginning, however, when premium rates increased by 35 percent for most policyholders, businesses did not exactly embrace an additional 15 percent charge for capital contributions. “We took a lot of heat from the business community,” Labbe said. “We really had to sell the concept of the company and the workers’ comp reforms.”

Open for Business

With funding in hand, the board now had to decide where to locate the company’s headquarters. The discussion on the most suitable site for MEMIC’s offices generated contentious debate. Some on the board believed it should be centrally located in the state, in Augusta or Waterville. Chairman Labbe argued that the company needed to be in the Portland area because Maine’s financial center was located there. Eventually the board voted to lease 6,000 square feet in an office building at 207 Larrabee Road in Westbrook.

As the January 1 deadline loomed, the board worked feverishly to set up the company and get it ready for business. MEMIC did not have time to hire and train enough staff to issue policies on its own. To meet the initial demand for workers’ comp coverage, the board contracted with local insurance firms to underwrite policies and manage MEMIC claims. Some in the industry expected MEMIC to continue to operate with subcontractors. “They urged us to create MEMIC as a front with just a few employees,” said Moser.

The board agreed, however, that as soon as possible MEMIC would run the entire operation, including establishing its own claims department and spearheading a safety campaign to limit losses. “If we had hired out everything," said Moser, "we'd just replicate the problems of the past. We decided we had to be different." MEMIC did rely on independent insurance agents throughout the state to sell the company's policies.

On January 1, 1993, with everything miraculously in place, Maine Employers' Mutual Insurance Company opened its doors for business with eight employees. The opening represented "the first visible sign of reform in the workers' compensation system," reported the *Portland Press Herald* in a front-page story. The previous week MEMIC had earned certification to do business in the state.

From Incorporators to Board of Directors

With their mission accomplished, the incorporators turned over control of the fledgling insurance company to a twelve-member board of directors and a CEO. Eight members represented various Maine industries; a ninth member served as an at-large employer representative. Three remaining members represented the public. Attorney Chris Howard served as interim CEO of MEMIC, while the directors searched for the right person to head the company. Seven of the directors had also served as incorporators. The thirteen members of the new mutual company's board were as follows:

- Jolan Ippolito, chair of the board and chair of the industry board representing services.
- President and CEO, ex officio member (filled temporarily by Chris Howard);
- W. Tom Sawyer Jr. of Sawyer Environmental Services, at-large employer;
- Harvey Picker, member of the Blue Ribbon Commission and public interest representative;
- Martin B. Hanish, Maine Municipal Association, public interest representative;

Members of MEMIC's 1998 board of directors. Eight of those pictured served on the company's first board. Seated, from left: Board chair Jolan Ippolito, treasurer David Labbe, Helen Sloane Dudman, and Thomas Moser. Standing, from left: Harvey Picker, Nona Boyink, W. Tom Sawyer, William Ginn, MEMIC president John Leonard, H. Timothy O'Neil, and Eleanor Baker.

- Helen S. Dudman, Dudman Communications Corp., public interest representative;
- Sharon M. Hanley, Camden National Bank, chair of the industry board representing finance, real estate, and insurance;
- David M. Labbe, Kittery Trading Post, chair of the industry board representing retail;
- Thomas F. Moser, Thos. Moser Cabinetmakers, chair of the industry board representing forestry, manufacturing, agriculture, and fisheries;
- Jody Lavoie, Wolf Construction, chair of the industry board representing construction;
- William J. Ginn, Resource Conservation Services, chair of the industry board representing transportation and public utilities;
- Guy J. Vigue, Yarmouth Town Council, chair of the industry board representing state and local government.
- H. Timothy O'Neil, Hascall and Hall Construction, chair of the industry board representing wholesale businesses.

THE MEMIC TEAM: HARD WORK AND CAMARADERIE

From the very beginning, MEMIC's employees have considered themselves part of a team—or more accurately, a family. "Everyone pitched in to do everything, from stuffing policies into envelopes to changing toilet paper in the bathroom," recalled Paula Saabye, who started work on MEMIC's first day of business in January 1993.

Saabye, who began as a temporary worker and became the organization's manager of corporate relations before leaving to raise a family, said everyone was excited and nervous on that first day as MEMIC embarked on a venture never before tried in Maine. Plenty of challenges had to be dealt with during those early months of operation. Lynn Emery Wight, who joined the MEMIC team in the early spring of 1993, remembered sharing a desk with one or two other workers at the Larrabee Road office. The setup encouraged quick friendships, she said.

The people at MEMIC made all the difference. Managers and staff alike embraced the company's vision and shared a desire to do everything possible to ensure MEMIC's success. As policy requests began to pour in, MEMIC workers spent long hours aiding clients and later, handling claims. Urged on by supportive managers, employees pushed themselves to develop talents and learn new skills.

Paula Saabye

Saabye was one of many who flourished in this atmosphere of mutual support. Newly graduated from Clemson University with a degree in travel and tourism, she took the job at MEMIC full of trepidation that her father would find out she was answering phones for a living after he had paid for four years of college. Within a few months, MEMIC's managers were finding many tasks that made good use of the skills she had learned in college. She became MEMIC's manager of corporate relations, arranging the company's travel, organizing events and meetings, and working with agents and the board of directors.

"The feeling of teamwork was there from day one," said Saabye. "John's (MEMIC's president Leonard) hands-on involvement and total open-door policy put everyone at ease and brought the whole company together." Wight agreed. "We knew this was going to be a special place to work. The positive attitudes, hard work, and camaraderie were amazing."

Employers watching the situation had one question on their minds: how much would the new company charge them for workers' comp coverage. MEMIC's premium rates would be 9.2 percent higher than in 1992 on average, Howard announced. Commercial insurers had predicted an 11.1 percent hike in rates for 1993. However, MEMIC's policyholders would also have to pay an additional 15 percent surcharge. Howard said the company's focus on workplace safety, return-to-work programs, and efficient management would result in lower rates in the long run.

Contracting out only the work needed to get started, the board began hiring staff and setting up departments. MEMIC bought computers to enable the underwriting department to create its own data base. A major reason the board wanted MEMIC to write its own policies and manage its own claims was to ensure that the company remained accountable to policyholders. Under the old system, many employers in the state had been allocated to the assigned-risk residual market pool. Unsafe working conditions and a rising number of workplace injuries had no impact—and were of no interest—to companies insuring employers in the assigned-risk pool. Insurance companies had no vested interest in the claims filed by those in the pool because they could merely pass along costs to policyholders, who had no choice but to pay. Insurers gave employers no incentive to institute safety programs. "People were getting hurt, and no one seemed to care," recalled Moser. "Employers would say, 'I have insurance for that' when an employee was injured on the job. We're talking about *people* here."

According to Ippolito, some insurance representatives acknowledged that they handled claims for assigned-pool clients differently from claims made by other policyholders. "That," she said, "was an eye-opener."

The incorporators determined early on that MEMIC's top two priorities would be to develop a safety program to reduce workplace injuries (and claims) and to process all injured workers' claims efficiently and effectively. The firm would always depend on independent insurance agents to sell policies but would work toward developing its own in-house claims department.

"We contracted with other firms for expediency, but it was always our goal to have our own staff adjusting claims," said Ippolito. "Our philosophy centered on the importance of handling injured workers' claims well. We needed to get injured workers the best and quickest care and treatment and get them back to work as soon as possible."

That would be what set MEMIC apart from other insurers and the key to fixing Maine's broken workers' comp system.

First MEMIC board chair Jolan Ippolito.

MEMIC president John Leonard in his office at 261 Commercial Street, Portland.

Chapter Five

Building a Company and a Vision

1993–1994

THE DECISION NOT TO RUSH INTO HIRING a CEO was one of the most important moves the board made in forming Maine Employers' Mutual Insurance Company, observed Chris Howard, who served as interim CEO during the directors' search for a top executive. "Hiring the wrong person could have been disastrous," he said. "It was worth the wait to get someone with the capacity to lead where the company needed to go."

The board of directors found that person in John Leonard. In February 1993, the board hired Leonard as president and CEO of the company. The Albany, New York, native brought with him more than twenty-five years of experience in the insurance industry. His most recent post had been with the Travelers Companies in Hartford, Connecticut, where he served as vice president of the company's commercial insurance line, overseeing a staff of 2,000 and writing billions of dollars in premiums. He began his first day at MEMIC's helm on his birthday, February 14.

Leonard became a remarkable leader for the new company, board member Thomas Moser said. "He knew the insurance industry inside and out. And he was in full accord with our vision."

Following the recommendations of the Blue Ribbon Commission, the board of directors established nine industry divisions, which oversaw policyholders assigned to them. Each division had its own nine-member board chosen by the policyholders. The division boards worked with MEMIC's management team on controlling losses, handling claims, and addressing other issues.

Eight divisions centered on particular Maine industries and were headed by directors who represented certain segments of the economy. One division combined manufacturing, agriculture, fisheries, and forestry. Seven other divisions focused on services; retail; construction; wholesale businesses; transportation and public utilities; finance, insurance, and real estate; and state and local governments. A ninth division oversaw high-risk businesses that had filed large numbers of injury claims in the past. Companies in this category were required to establish programs to reduce losses. Once their records improved, they were reassigned to one of the eight industry categories.

John Melrose of the consulting firm Maine Tomorrow helped directors organize the industry divisions. As part-time manager of the Maine Self-Insurance Guarantee Association, Melrose had witnessed the success some self-insured industry groups had in cutting costs by reducing workplace injuries and making claims handling more efficient. MEMIC adopted both those approaches in setting up its own industry divisions.

In the end, the industry-based divisions proved to be too unwieldy to operate effectively. The board of directors disbanded them after a year or so. But in MEMIC's early days, the divisions provided the directors with almost one hundred industry leaders who served as an informal public relations force for the new company.

"We had all these people on the boards excited about MEMIC, who talked to other employers and spread the word," said Richard Clark, a MEMIC board member who served on the finance, real estate, and insurance industry board. “The boards were a good cross section and involved future customers from the beginning. They were one of the reasons MEMIC gained support.”

During this period, MEMIC worked hard to make its presence and its unique approach to reducing workers’ compensation costs known to those in Maine’s business community. Company officials delivered the MEMIC story to civic organizations, chambers of commerce, and insurance agents throughout the state.

Rapid Growth

Three weeks into the new year, MEMIC had signed up 1,861 policyholders. By April 30 the company had processed nearly 5,500 policies, completing them at the rate of 100 a day. Leonard attributed the numbers to leadership in the company’s underwriting department, an experienced and capable staff, and an efficient workflow system. He also credited strong cooperation from independent insurance agents.

The steady growth in policies brought money into the company’s coffers. MEMIC chose Scudder, Stevens & Clarke Inc. as its investment banker and announced in its in-house newsletter that it could have as much as $150 million in invested assets by the end of 1993.

Other insurance companies took note of the state’s changes in the workers’ compensation system and of MEMIC’s operation. Two insurers that had left the state announced they would be returning. A third company that was in the process of leaving announced it had changed its plans.

By spring of 1993 MEMIC had passed its initial hurdles. It had settled into its new headquarters, had hired employees, and was writing policies. But workers’ compensation costs remained high. Some businesses, insured by MEMIC because they could not get insurance anywhere else, saw their premiums rise between 30 percent and 50 percent. MEMIC president Leonard said the increases were unavoidable and not surprising given the challenges facing the workers' compensation system.

Although many people had expected the workers' compensation reforms to reduce rising costs immediately, Leonard said the extremely complex task of getting premiums under control would require time as well as creative solutions. That June Leonard announced three plans under which companies insured by MEMIC could reduce their premium costs:

- Loss Control Incentive Rating Plan: This plan offered a 10 percent to 25 percent reduction in premiums to businesses that launched a MEMIC-approved loss control (safety) program;
- Deductible Credit Program: Businesses that accepted higher deductibles on their plans could receive credits ranging from 3.5 percent to 36.6 percent;
- Loss Free Credit Program: Policyholders who had not filed claims for at least two years qualified for premium discounts between 5 percent and 15 percent depending on the number of claim-free years.

Making an Issue of Safety

Ultimately, making Maine workplaces safer would be the most effective way to cut workers' comp costs for everyone. MEMIC faced one of its biggest challenges in changing attitudes toward workplace safety. "There had to be a sea change to bring people from having no commitment and no education regarding safety to a culture that embraced safety," said Leonard. "We had to create a new Bible. It took us three years to make measurable progress, but it made a major difference."

In May 1993 MEMIC launched a media campaign designed to encourage workplace safety. Phase one of the $500,000 campaign used television and radio commercials that challenged Mainers to change their attitude toward the issue. From the beginning, the advertising campaign—

WORKING SMART TO AVOID INJURIES

MEMIC's campaign for workplace safety received some unexpected help from a Waterville man. When the *Central Maine Morning Sentinel* ran a photograph of a laborer using the backside of an axe to pound a stake into the ground, Will Conway wrote the newspaper:

> **Where was his safety helmet? Where are his safety glasses and furthermore, do those boots he is wearing have steel safety toes?" Conway noted that if the axe were to bounce off the stake, the sharp end of the tool would no doubt land on the man's head. "We all pay, folks. In one way or the other we each contribute to the costs and payments of the workers' compensation program, and certainly one of the easiest ways I know of to keep costs and injuries down is to work smart."**

developed by advertising executive Meredith Burgess and MEMIC's vice president for strategic planning Anthony M. Payne—emphasized the importance of workplace safety in reducing workers' comp costs. Award-winning ads made workplace safety "as important a publicly held value as wearing safety belts, not littering, and not smoking," Burgess said.

Phase two of the campaign began later that spring and featured thirty-second testimonials from businesses that had instituted safe workplace practices. Once skeptical employers responded enthusiastically to the new safety initiative. All advertisements included MEMIC's toll-free number, which businesses could use to request more information. Business owners began punching in the number to ask where they could buy the safety equipment MEMIC featured in the ads.

MEMIC's Leonard put a face on the issue of safety. Ads and public service announcements seen throughout the state cast Leonard as the "champion of the cause." For the more than 21,000 employers and approximately 300,000 employees covered by MEMIC, Leonard became the guardian of their interests. And safety gained prominence as never before as a prerequisite in Maine workplaces.

MEMIC knew its message was getting through, said Burgess, when Leonard, new to Maine but ubiquitous as the safety guru, went out for pizza one night. The cashier, giving a nod of recognition, asked MEMIC's CEO, "Hey, aren't you the safety guy?"

Leonard's approach, board member Harvey Picker said, marked a complete change in workers' compensation policy in Maine. Instead of concentrating on whether injured workers should be paid, MEMIC put the focus on preventing workers from getting injured in the first place. "This was an absolutely innovative approach," Picker said. "And it served a tremendous public good."

Royce Cross, a Bangor-based insurance agent who has sold MEMIC policies from the beginning, said MEMIC's approach changed workers' comp significantly. "MEMIC came in and insisted on safety in the workplace," he said. No other company had done that.

MEMIC researched ways to reduce workplace injuries and developed training programs that promoted safety. The company also began offering several premium pricing options designed to encourage policyholders to take an active role in reducing their costs. One option provided a discount on premiums if a company met certain safety standards. In an interview with the *Portland Press Herald* in March 1993, Leonard said the company planned to approach the issue of loss control in three steps. The first step would be an effort to build awareness among employers about the importance of prevention. The second would be a detailed follow-up of the awareness campaign. Finally, MEMIC would begin working with employers on prevention programs.

W. Tom Sawyer Jr., who served on the MEMIC board of directors from 1992 to 1998, said the company's approach to safety dramatically reduced the number of work-related injuries among Maine workers and, in the process, cut workers' comp costs for the state's employers. Under the old system, Sawyer said, most employers did little more than send an injured worker to the hospital, fill out the required paperwork, and ask the insurance company to inform them when the employee could return to work.

MEMIC changed all that. The company provided extensive safety training for employers and employees and advised them on changes to make workplaces less dangerous. Sawyer credited Dan Cote, MEMIC's vice president for loss control in the early years, with bringing Maine's small business owners, "often kicking and screaming, into the twenty-first century." MEMIC inspectors performed safety inspections of policyholders on a regular basis and insisted that violations be corrected. Injured workers were brought back to work as soon as possible; light-duty tasks were assigned to those whose injuries required it. MEMIC focused on getting workers back to work and preventing further injuries from occurring. Safety training, said Sawyer, "was the order of the day." Employers' ability to obtain workers' comp insurance from MEMIC—the only source of insurance for many of Maine's businesses in the 1990s—hinged on their compliance with safety procedures instituted by the insurer.

First Annual Meeting

On June 21, 1993, the company held its first annual meeting in Westbrook. President Leonard told the crowd of more than one hundred people that the company had resolved all its major organizational issues. He praised the "dedication and unrelenting energy" of MEMIC employees in establishing the company's divisions and said tight expense controls would be one of the major priorities of the coming year.

Growing rapidly, MEMIC had taken over the entire 10,000 square feet of the Westbrook office building shortly after moving there and still needed more space. After the annual meeting, the company announced that it would move its operations and seventy employees to the vacant Harbor Plaza building at 261 Commercial Street in Portland. Leonard said he expected MEMIC to double in size over the next eighteen months. By September 1993 the firm's staff had settled into its new Portland home.

Creating a Community

The reforms enacted by the legislature included a major change in the system that helped reduce workers' comp costs: the elimination of payments for injured workers' attorney's fees. Under the old workers' comp system, lawyers, expert witnesses, and other related court costs consumed a large portion of the premiums paid for workers' compensation insurance.

Between 1987 and 1992, insurance companies had to pay the fees of lawyers who won even a tiny increase—one dollar or more—in a worker's settlement. Under the old system, insurers resisted even reasonable compromises in settlements if they also faced huge attorney fees. And whenever the insurer paid attorney fees, the money eventually came out of employers' pockets in the form of higher insurance premiums. Employers also had to foot the bill for other workers' comp professionals, such as medical experts and others who testified at court.

MEMIC board members Thomas Moser, left, and William Ginn.

Supporters of the reforms said the old arrangement encouraged workers to go to court and pitted employees against employers. Moser experienced the adversarial nature of the system when his son Aaron lost the tips of two fingers in a shop accident at Moser's furniture making workshop. He was served with papers that read *Aaron Moser vs. Thomas Moser*.

"When I saw that," Moser said, "I thought, 'No wonder there are problems.' This attitude of us versus them caused problems at the core of the system."

Under the new system, disputes over claims went to mediation for resolution. If that failed to settle the matter, the case could be reviewed by a medical examiner appointed by the Workers' Compensation Board. Later on, the legislature appropriated funds to hire advocates to assist workers with their claims and appeals. Injured workers could still hire attorneys to pursue their case at a formal hearing, but they had to pay the lawyers' fees themselves. Labor unions and others continue to push for coverage of attorney fees. They argue that lawyers protect workers' rights and without funds for attorney fees, some employees will not receive fair compensation for their injuries.

MEMIC sought to replace the confrontational relationship between workers and employers with a cooperative one. By linking safety records to premiums, MEMIC gave employers financial incentives to protect their workers. “Employers started seeing employees as an absolute resource, not as expendable,” Moser said. “We tried to create a community that helped both parties and that insisted on loss control.” Workers benefited from the new emphasis on safety and MEMIC’s resolve to handle injured workers’ claims quickly and fairly. Employers appreciated the new atmosphere of cooperation as well as the promise of reduced premiums.

MEMIC’s “partnership for workplace safety” campaign won recognition in 1993 from the American Association of State Compensation Insurance Funds (AASCIF), an international group representing workers’ compensation insurers in the United States and Canada. The award was all the more impressive because MEMIC accomplished the feat in its first year of operation.

Cutting Costs

MEMIC continued its efforts to reduce costs by launching several new programs in the summer of 1993. Among the more significant was the creation of an in-house managed care program designed to contain medical costs. Under the program, MEMIC reviewed medical bills associated with workers’ compensation claims. Those bills were checked against an in-house fee schedule and reduced if they exceeded the schedule. Reviewers also looked for inconsistencies in billing and checked to see if medical procedures conducted in connection with claims met standard practices. The medical reviews provided better documentation to help determine when injured workers could return to their jobs.

To address false claims, MEMIC launched a unit to investigate fraud and abuse of the workers’ comp system. According to an article in MEMIC’s newsletter *Mutual News*, an estimated 5 percent to 15 percent of all claims were exaggerated or false. Some sources, the article noted, estimated that false claims cost as much as 40 percent of payments made for claims. MEMIC's Abuse Investigation Unit worked with state and federal agencies to uncover fraudulent claims. The investigators hired by MEMIC had law enforcement backgrounds and were initially charged with setting up surveillance in suspected fraud cases.

Thomas Moser said fraud had created "a level of frustration" at his business and other companies throughout the state. "There was so much unfairness in the system. People weren't injured but were taking advantage of a system that practically begged for abuse," Moser said. Such abuses not only hurt employers saddled with huge insurance premiums but also damaged morale among honest workers and poisoned the business climate.

Saving Lives and Money

That summer the company began a series of workshops to educate small business owners about workers' compensation issues and to teach them how to handle claims when injuries occurred. MEMIC also began developing safety workshops that offered specific tips for creating safer workplaces at each type of business. For example, a workshop presented to workers at salmon farms focused on transporting employees safely to and from the salmon pens, the proper use of personal flotation devices, man-overboard retrieval procedures, and cold-water survival.

The first workshops addressed problems in one of the highest risk occupations in the state: logging. With injury rates that approached 25 percent and as many as five deaths per year, logging companies paid the highest premiums for workers' compensation—as much as 44 cents per payroll dollar.

MEMIC faced a special challenge in bringing the vision of safe workplaces to an industry inherently unsafe and resistant to new practices. To make the message easier to digest, MEMIC worked with the Maine Forest Products Council and the American Pulp Wood Association to develop a safety program for the logging industry. MEMIC hired internationally renowned logging trainer Soren Eriksson to teach the safety course, known as the Certified Logging Professional (CLP) program, to six instructors. Once trained, the instructors traveled the state, conducting four-day workshops in logging camps.

MEMIC's training had a dramatic effect on the industry almost immediately. There were no logging fatalities in the state for several years following the program's launching. Even seasoned loggers acknowledged they had learned something useful from the workshops. "I've been cutting wood all my life," one logger told a reporter from Lewiston's *Sun Journal* in June 1994. "I thought, 'What are these guys going to teach me?' But after the first hour I realized there is a lot more than I ever knew."

Promising Results

By September 1993 even the most skeptical of critics began to see improvements in workers' compensation. Claims were down 32 percent in the first two quarters of 1993, a drop the *Bangor Daily News* credited to the reforms. Disputes over claims had likewise plummeted. Mark Dionne, a manager at Spencer Press in Wells who served on the Workers' Compensation Board, said the number of contested claims was "way, way down, dropped through the floor." Injuries had decreased by almost one-third in the first six months of 1993, and the market had begun to stabilize.

Despite a 35 percent rate increase in premiums for businesses in the residual pool, MEMIC's efforts to increase workplace safety and to improve relations between workers and management promised to decrease employers' costs in the near future. Several insurance companies that had withdrawn their business from the state, including Hanover, Commercial Union, and Peerless, had reentered the Maine market, while other insurers were taking a wait-and-see position.

Standing in front of a statue of legendary logger Paul Bunyan, logging safety specialist Bob Meyer, left, and MEMIC's vice president for loss control and safety Dan Cote, right, hold a press conference to introduce MEMIC's Certified Logging Professional program, designed to reduce injuries and deaths among loggers.

MAINE 200

While MEMIC was working to improve the safety records of its policyholders, the federal government was trying a similar approach. The "Maine 200" program began in 1993 when the Occupational Safety and Health Administration (OSHA) identified two hundred companies with the worst safety records in the state. These companies represented 1 percent of the state's employers but 45 percent of the workers' compensation claims. OSHA officials offered these companies the option of participating in a program to identify and fix workplace problems or facing a series of OSHA inspections and fines. All but two of the companies agreed to enter the program.

In the first eighteen months of the pilot project, participating companies identified and corrected more than 55,000 hazards at their facilities and work sites. Workplace injuries at the companies decreased by nearly 1,500 in one year, from 7,776 in 1992 to 6,290 in 1993. The project proved so successful that it received special recognition from Vice President Al Gore in 1995. OSHA expanded the project to Wisconsin in 1995 and introduced its safety programs nationwide in 1998.

Jack Dexter, president of the Maine Chamber of Commerce, initially expressed skepticism over the reforms but said the progress in workers' comp had given him optimism that the changes would be good for the state's businesses. Charles Weeks, vice president of H. E. Sargent Inc. and chair of the Workers' Compensation Board, reported that people were "taking on-the-job safety more seriously." Others said employees showed more willingness to return to work, and employers were more willing to make a place for them. House Speaker Martin, while still questioning the fairness of the reforms to workers, argued that the legislature should give the new law a "reasonable trial period" before taking any further action on workers' comp. Even Maine's longtime labor leader Charles O'Leary, who had sharply criticized the cuts in benefits for injured workers, said that in the last six months there had been "more progress in workers' comp than in the last six years."

At a forum on the new workers' comp reforms held December 15, 1993, in Brewer, MEMIC president Leonard told employers and legislators that Maine no longer deserved its reputation as having the worst system in the nation. The 1992 reforms, he said, had reduced the cost of workers' comp and created a system that now benefited employers and employees instead of lawyers and medical professionals.

Employers, however, continued to be burdened with expensive workers' comp plans. In addition to premiums and rates that increased yearly, they had to pay a fresh start surcharge—7.5 percent in 1993, 9.5 percent in 1994—to help cover the residual pool debt. MEMIC policyholders had to pay an additional 15 percent surcharge. (The MEMIC surcharge decreased to 10 percent in 1994.) In a survey conducted by the National Federation of Independent Business in Maine in 1994, 41 percent of the respondents said they thought workers' comp was worse than before, while 30 percent viewed it as improved, and 29 percent were undecided. A third said high workers' comp costs forced them to limit raises, 20 percent said they had to eliminate jobs, and 15 percent dealt with the financial strains by increasing prices. State Senator Charles Begley, a Republican from Waldoboro, observed in his report on the legislature, "The long awaited improvement in the workers' comp rate is still long awaited." He greeted MEMIC's promise to return the capitalization surcharge to policyholders with an acerbic "Yes, there is a tooth fairy."

Rod Stanley, MEMIC's director of construction operations, loss control division, recalled the anger of some customers during the company's early days. Enraged policyholders would "pull their bills out and wave them in my face. I often felt I needed to wear a face shield when I went to meet with them," said the safety expert, only half joking. Employers' attitudes toward MEMIC have shifted dramatically with the decrease in rates and the drop in injuries and claims, but in 1994 some business owners "were hopping mad."

Small businesses in particular struggled with their workers' comp bills. Debra D. Plowman, a Republican state representative from Hampden, and her husband, David, faced a whopping $17,000 bill—plus $1,615 for the fresh start surcharge—for workers' comp coverage for five employees when they opened their business, PDQ Door Company, near Bangor in 1994. Included in that price was the capitalization surcharge for MEMIC. "I don't mind paying some to keep the insurers here and help them get bailed out, but as a new company I'm being asked to pay forward and backward, and that doesn't seem right," Plowman said.

The MEMIC board committed itself to reducing employers' costs. By 1994 MEMIC had issued workers' compensation coverage to about 25,000 businesses in Maine. In a January 1994 interview with the *Portland Press Herald*, board chair Jolan Ippolito predicted that rates would begin to decline that year.

The following month MEMIC began pushing harder to get larger businesses to participate in the safety incentive program. Policyholders who developed loss control programs reported lower numbers of workplace injuries. In some cases injury figures dropped by as much as 51 percent. Bruce A. Makas, president of Saco Defense Inc., a manufacturer of military weapons in Saco, said in 1994 that his company had implemented an intensive in-house safety campaign, and it had already begun to pay off in fewer injuries and lower costs. Saco Defense had considered leaving the state before the reforms were enacted, he said. "We are committed to staying in Maine now."

MEMIC's safety program was so successful that in July—after only eighteen months in business, the company announced it would seek a 3.4 percent reduction in rates, citing both its success in building a financial base and a drop in reported workplace injuries. After the Maine Bureau of Insurance approved the rate cut, Commercial Union Insurance Companies and Acadia Insurance Company followed suit with their own price reductions. The reductions marked the first voluntary cuts in workers' compensation rates in thirty-five years. The rate decrease and MEMIC's aggressive safety campaign led the *Bangor Daily News* to proclaim in an editorial later that year that "the new [workers' comp] system is working."

MEMIC introduced new programs throughout 1994. It added a toll-free number so companies could quickly report work-related injuries. National data showed that injuries reported within five days cost an average of $5,804 in medical and lost-wage benefits. Delaying the report thirty days pushed the costs to $15,538.

That fall MEMIC began publishing *Maine Workplace*, a glossy magazine focused on workplace safety, which the company distributed to its policyholders. The first issue of the quarterly magazine included articles on reducing back injuries and improving safety in retail businesses, and a guest column—written by an attorney—warning against running a business without workers' compensation insurance. The cover sported a photograph of employees at Governor's Restaurant in Old Town wielding a mop and brooms, symbolizing the campaign to "clean up" job sites and

MEMIC launched the Maine Workplace *in 1994 to educate its policyholders on the importance of safety.*

make them safer. In a message to readers, MEMIC president John Leonard said that the company had conducted 4,000 on-site safety reviews in the past twenty-one months and had held four hundred workshops on safety. Employers who implemented MEMIC's safety plan reduced the injuries at their businesses by an average of 50 percent, Leonard said.

Back to Work

Handling injured workers' claims fairly and effectively had always been among MEMIC's top priorities. Under the old workers' comp system, Leonard said, "I found that injured workers had been sorely mistreated. They were not getting initial benefits paid on time, and they weren't receiving vocational or medical rehabilitation services. There was a feeling of apathy toward the plight of injured workers. They were out and forgotten."

Leonard directed the company's energies to helping injured workers. MEMIC set up a first-class claims department that treated injured workers as customers instead of claimants. "We changed the whole way injured workers were viewed by insurance companies," Leonard said. The department filed and processed claims quickly and made sure that workers received payments due them without delay. "If you are an injured worker in Maine," Leonard said, "you're going to get your check on time."

The claims department also arranged for medical care and treatment.

DIRECT LINE TO THE PRESIDENT

An injured worker from South Portland called MEMIC president John Leonard to tell him that he was worried he might not receive his first disability check on time. His family needed the money to make it through the weekend. Leonard talked with the claims department and found that the man's check was ready to go. Calling him back, Leonard reassured the man that he would receive the check that Friday as promised.

"I'll be just as relieved as you will be when the check arrives on time," Leonard said. He told the man to call him if the check did not arrive in the mail on Friday, and he would send a claims representative to his house with a check.

Amazed by Leonard's response to his fears, the man told his employer that he couldn't believe that an insurance company cared about him as much as MEMIC did. He had assumed he would have to speak to a secretary and never thought he would be able to talk directly to the president. "Mr. Leonard was really concerned," the man told his employer. Recalling the story, Leonard concurred with that conclusion. "I *was* really concerned."

Sure enough, that Friday the check came as promised, and the man called to tell Leonard. Leonard told him to call if he encountered any trouble in the future. "I'm sure he worries a lot, but this is one thing he shouldn't have to worry about," said MEMIC's chief executive.

Workers wear safety equipment to unload steel at Merrill's Marine Terminal. The marine terminal's president P. D. Merrill praised MEMIC's safety programs and other efforts to reduce workplace injuries.

A disability management nurse on MEMIC's staff guided injured workers through treatments and helped families deal with the situation by arranging lodging near hospitals when necessary and resolving other issues. "We wanted people to get better," said board chair Ippolito.

The new attitude toward workplace safety and workers' compensation—and the fact that disability benefits for long-term cases made up the major share of workers' compensation costs—prompted business owners to work harder to get injured employees back to work. MEMIC and other insurers began giving discounts on premiums to employers who set up return-to-work programs for injured employees. Even without considering disability payments, hiring and training new workers cost employers far more than making accommodations to return injured workers to their jobs, MEMIC told its policyholders.

Board member Sawyer, who also served as a state senator, noted the importance of MEMIC's return-to-work programs. "Before MEMIC, employers paid their comp premiums and merely sent injured employees to the doctor and expected their return when 'healthy.' Once MEMIC got geared up, employers began implementing light-duty and return-to-work programs and taking increased responsibility for their employees." Along with such programs, Sawyer said, MEMIC enforced workplace safety through biannual inspections that helped prevent future injuries.

Such programs reinforced the worth of workers and helped them to return to work as soon as their condition allowed. Both workers and employers began to see the MEMIC return-to-work program as a benefit as valuable as vacation pay and health insurance.

"MEMIC is the only company whose primary objective is to help protect Maine workers and reduce Maine employers' insurance costs," said P. D. Merrill, president of Merrill Industries. "When an injury does occur, MEMIC supports employees through the maze of health care requirements to get them back to work as soon as they are able."

Mike McCarthy, who was injured while on the job at Hight Chevrolet Buick, had similar praise for MEMIC's return-to-work program. Working with MEMIC, Hight arranged for McCarthy to perform light-duty assignments for a few weeks before resuming his full-time job. "I didn't want to be out," McCarthy said. "It didn't do me any good to sit around, so I came back as soon as I could."

With help from MEMIC's staff, many other workers had similar success in returning to work after injuries.

Andy Wood, right, director of MEMIC's logging safety program, has earned national recognition for his efforts to save lives in Maine's dangerous logging industry.

Chapter Six

Achievements and Challenges

1995–1997

Maine Employers' Mutual Insurance Company celebrated its third year in business by marking a major milestone for worker safety. The number of injuries that caused Maine workers to be off the job dropped by 1,100 between 1992 and 1993. Announcing the good news in January 1995, MEMIC president John Leonard predicted that figures for 1994, once they had been computed, would show a similar drop. When the figures came in, they confirmed Leonard's hopeful forecast. The number of workplace injuries had dipped to 16,016, the lowest number of claims in sixteen years.

Looking at the coming year, Leonard had more welcome news for Maine's employers. He reported that the National Council on Compensation Insurance (NCCI) had predicted that Maine's workers' compensation rates could drop by as much as 12.5 percent in the coming year. "If we have any wish for the new year, it is that people will continue changing their attitudes about making the health and safety of one another their first priority," Leonard said.

Others in the business community shared Leonard's optimism. *Business Insurance*, a trade newsletter for corporate insurance executives, declared in its January 9, 1995, issue that "Maine leads comp rate turnaround." The article noted that the predicted cut in workers' compensation premiums for 1995 was the highest in the nation. "This 12.5 percent (reduction) really does signal that Maine has turned its workers' compensation system and climate around," the publication quoted Brian K. Atchinson, superintendent of Maine's Bureau of Insurance.

Tony Payne, MEMIC's vice president of strategic planning and communication, attributed the savings to a change in workplace culture. "What we are trying to instill in employers is that if they send home workers as healthy as when they arrived at work, employers have accomplished a major social good," Payne said.

Hurdles Remain

Despite the promising advances in workplace safety, Maine reformers still faced plenty of hurdles. For one, while the state's injury rate had declined, it continued to be 18 percent higher than the national average. One of the major contributors to the high rates was the logging industry. Nearly 40 percent of the industry's payroll went to cover workers' compensation premiums. MEMIC instituted a special program which required that all logging company owners, supervisors, and loggers become Certified Logging Professionals. Those who failed to do so faced a 20 percent increase in insurance rates. At the time, only 25 percent of the four hundred logging companies insured by MEMIC met this standard. MEMIC also threatened to cancel the workers' compensation policies of logging operations with poor safety records who refused to meet certain safety standards.

In addition, the debt rung up by the residual market pool between 1988 and 1992 continued to plague the system. That debt—estimated to be between $200 million and $500 million—was based on the amount needed to pay for workers' compensation claims filed during the four-year period before MEMIC's creation. Businesses claimed insurance companies should pay the debt, while insurance companies contended the responsibility lay with employers. Employers were already paying part of the cost through a 9.5 percent fresh start surcharge on their workers' compensation bills. In the early 1990s the Bureau of Insurance ruled that insurers should pay half the residual pool's debt because they had not made a "good-faith effort" to provide insurance coverage to Maine businesses. The insurance companies filed suit to rescind the order, claiming that employers should pay the full amount. In February 1995 the Kennebec County Superior Court ruled against the insurers, who appealed the decision to the Maine Supreme Court.

During the 1994–1995 legislative session, State Representative Debra Plowman introduced a bill to reduce the fresh start surcharge from a rate of 9.5 percent to 2 percent. The bill attracted bipartisan support and eleven cosponsors. Plowman said the legislation aimed at reducing employers' workers' comp costs and making the state more attractive to new businesses. "Getting these costs down is something we should be looking at, especially if we're going to try to coax new businesses here," she said.

Insurers feared the 7.5 percent drop in the surcharge would undermine efforts to pay off the residual pool's debt and could threaten their financial stability. The Maine Chamber of Commerce, representing many of the state's employers, took no stand on the issue. The *Bangor Daily News* and others said the reforms should be given a chance to fix the workers' comp system without the legislature's tinkering with various provisions.

Governor Angus King appointed an eight-member committee to study the problem. In June 1995 the committee recommended a solution to the lingering residual pool debt. Employers would pay $110 million through a reduced fresh start surcharge of 6.32 percent. Insurance companies currently licensed to sell workers' comp insurance in Maine would pay a lump sum of $65 million on January 1, 1996, and the Maine

Insurance Guaranty Association, a nonprofit organization funded by the insurance industry, would pay $45 million over the next few years. If more funds were required to pay off the debt, the residual pool could obtain guaranteed loans from the Finance Authority of Maine. The legislature approved the proposal, and Governor King signed it into law on June 23.

Smaller insurance companies balked at shouldering the financial burden for the residual pool required of them under the new law. In December nineteen insurance companies challenged the residual pool bail-out plan in court. Before the case was settled, in 1998, a total of thirty-three insurers signed onto the lawsuit. Many of the insurers involved said they had not even offered workers' comp insurance in Maine during 1988–1992. Therefore, they told the court, they should not have to pay any of the debt that accrued during that time. Under the 1995 law, the smaller firms were assessed $6.5 million as their share of the debt.

"We're saying we didn't cause this mess. We never took the opportunity to profit from it . . . So it's absolutely unfair and unconstitutional to tag us for the liability for it," said Bob Hirshon, the attorney filing the suit for the insurers.

Medical Examiners Dispute

The Workers' Compensation Board had to deal with a controversy of its own. The 1992 statute called for the board to appoint fifty independent medical examiners. The examiners were supposed to serve as the final arbiters in disagreements over individual workers' compensation claims. If mediation failed, a medical examiner could be called in to evaluate the cause and extent of a worker's injuries. The doctor's ruling would stand as the final decision. The system was to replace the use of private doctors to make such evaluations and was expected to reduce the number of cases taken to court and thus speed up the process. The Bureau of Insurance had estimated the use of independent medical examiners would cut workers' comp costs by up to 12 percent.

After three years, the board had failed to appoint a single examiner, in part because labor and management members could not agree on the criteria for choosing the doctors or on how to ensure that the examiners would judge workers' injuries objectively. For months action on the issue was delayed as members failed to work out a compromise. Labor representatives on the board walked out of meetings or skipped them altogether to show their opposition to proposals by management members.

The impasse led MEMIC to take a rare stand on the issue. Leonard, president of the mutual company, which usually refrained from commenting on political matters, said the medical examiners were an essential part of the workers' comp package enacted in 1992 to cut costs and increase efficiency. "This is the last piece in one of the most progressive reforms in the country," Leonard said. "One of the most important sections is still out there hanging." Harvey Picker, who served on the Blue Ribbon Commission that devised the reforms, agreed. "I can't emphasize enough that this is absolutely critical," he said of the medical examiners provision.

Finally, on September 28, 1995, the Workers' Compensation Board during an emergency meeting appointed the first examiners. "Ultimately, the medical examiner system proved to be a very useful tool," said Paul Dionne, who succeeded James McGowan as executive director of the Workers' Compensation Board in 1996. Because the examiners did not represent either employers or employees, their decisions carried greater weight than individual doctors and helped resolve issues more quickly.

"Early New Year's Present"

Despite the controversy around the medical examiners, the workers' compensation climate in Maine continued to improve. Deaths on job sites dropped to twenty in 1994, four fewer than the year before. Likewise, work-related injuries continued to decrease, dropping to just over 16,000 in 1994, a reduction of more than 3,000 lost-time injuries in one year's time. In June 1995 MEMIC announced a 5.6 percent cut in workers' compensation premium rates, made possible because of a reduction in workplace injuries and successful efforts to return injured employees to work. In an address to the Maine people in August Governor King proclaimed that businesses had begun to invest in the state again, in part due to the decrease in workers' compensation costs.

These advances convinced a number of commercial insurers to return to Maine. By fall 1995 the state had attracted one hundred licensed workers' compensation carriers, up from only a handful of firms offering workers' comp coverage in 1993. Fifteen of these companies had already begun actively writing policies, according to the Maine Bureau of Insurance. MEMIC continued to handle the bulk of coverage, issuing policies to 70 percent of the state's businesses, employing a total of 300,000 workers.

In November Liberty Mutual, once the state's largest workers' compensation insurance carrier, said it would return to the state and begin offering workers' comp coverage to Maine employers immediately. Spokeswoman Margaret Sheehan said Liberty Mutual made the decision to return because the 1992 reforms and the creation of MEMIC had stabilized the market and improved conditions for everyone involved in workers' comp: employers, employees, and insurance companies. State officials saw the insurer's return as a welcome signal that the reforms were working. "I see this as a vote of confidence that Maine has taken the necessary steps to make its workers' compensation market and rates among the most competitive in the nation," said S. Catherine Longley, commissioner of the Maine Department of Professional and Financial Regulation.

Also in November MEMIC announced "an early New Year's present" to the 22,000 employers who received workers' comp coverage from the mutual company—the end of the capitalization surcharge. The board's vote to discontinue the surcharge represented "the most significant financial development since the company began operation," MEMIC president Leonard said. Employers had paid the surcharge since the company opened for business in 1993. The money went into a fund that MEMIC set aside to pay future claims. In making the announcement, Leonard said MEMIC's "conservative management and aggressive campaign to improve workplace safety" allowed the company to suspend the surcharge two years earlier than had been expected. Originally set at 15 percent, the surcharge dropped to 10 percent in 1994. The elimination of the surcharge in 1995 amounted to an $11 million savings for Maine employers.

"This is great news for the Maine economy," Governor King said. He called the action a major investment in the state's businesses and "the best evidence yet that we've got Maine's workers' comp system under control."

Employers planned to use the money in a number of ways. Sunday River Ski Resort planned to use the savings to expand and add more jobs. Kittery Trading Post was already using savings from its workers' comp account to finance dental insurance for 150 full-time employees at the sporting goods store.

Board member Harvey Picker said MEMIC's discontinuation of the surcharge demonstrated the success of the workers' comp reforms, which benefited the entire state. "Those workers who were losing jobs now have jobs and are getting more money as a result of what you have seen," he said.

In an on-air commentary that December, Fred Nutter, editorial director for WCSH-TV, praised MEMIC's decision and noted that dropping the surcharge would provide a real boost to the state's economy. Employers could use the savings, he said, to create new jobs, invest, or provide better employee benefits. Nutter also noted MEMIC's success in reducing on-the-job injuries. Emphasizing safety, he said, had helped to cut the statewide cost of workers' comp by a third in less than three years, saving Maine businesses $60 million in premiums over that time.

Later that winter, MEMIC claimed another first—the successful prosecution of three fraud cases before the Workers' Compensation Board. Each case involved the discovery and videotaping of workers with supposed serious physical disabilities performing manual labor. The Workers' Compensation Board fined all three and ordered them to pay restitution to MEMIC. They were among six hundred cases examined by the firm's in-house investigative unit in 1995.

Competitive Market

The market for Maine's workers' comp business began to heat up as additional insurance companies returned or opened new offices in the state. In March 1996 Hartford Insurance reentered the market after a four-year hiatus. A company spokesman credited the 1992 reforms for the transformation in Maine workers' comp "into a healthier and more competitive marketplace" that attracted insurers and provided employers with many more choices for coverage.

In June MEMIC announced a rate cut of 8.2 percent. The reduction, the third in as many years, marked a 43 percent drop in the cost of workers' compensation insurance since the company's inception in 1993. Other insurance carriers in the state dropped their rates as well. "It's a pretty radical turnaround," Eric Cioppa, then workers' compensation supervisor for the Maine Bureau of Insurance, said of the newly energized market. Cioppa was named superintendent of Maine's Bureau of Insurance in 2011.

The competition for customers increased emphasis on workplace safety and returning injured employees to work, goals MEMIC had cham-

MEMIC'S FRAUD SQUAD ON PATROL

A Maine hunter hoisted the massive head of the moose he had just shot for a video requested by an admiring tourist. Only the tourist wasn't a visitor from away; he worked for MEMIC as an insurance investigator hired to detect fraudulent disability claims. The hunter, caught on tape gutting the moose and lifting the huge animal's head for all to see after a full day in the woods, was collecting disability checks for a work-related shoulder injury too painful for him to continue at his job. Supposedly, his injury prevented him from lifting his arm beyond a certain point. But the video showed him holding his rifle higher than that to shoot, reaching deep into the dead animal to gut it, and raising the moose's mammoth head by the antlers. After the videotaped evidence showed the man's real physical condition, MEMIC discontinued his workers' compensation checks.

The hunter was one of a small percentage of people on MEMIC's disability rolls who try to cheat the system. John Marr, MEMIC's vice president for claims, said in 2002 that investigators discovered fraudulent claims in only 3 percent to 6 percent of more than 20,000 cases reviewed by the company each year. "But those 3 to 6 percent cost millions of dollars," he said. "They give the honest workers a bad name. They cause employers to have a jaundiced view of the workers' compensation system."

MEMIC takes its responsibility to policyholders and workers who truly deserve benefits seriously. Fraudulent claims can land scofflaws in jail, in trouble with the Internal Revenue Service, or in financial hot water when they are forced to repay the misbegotten benefits. MEMIC's Marr said the company used a tough approach when dealing with fraud in an effort to change the culture of workers' comp. Previous workers' comp programs provided too many ways for dishonest people to take advantage of the system. That resulted in higher costs and unfair distribution of benefits.

The first cases MEMIC prosecuted, in 1995, involved a lobsterman, a nurse's assistant, and a shoe factory worker. Investigators produced evidence that all three had engaged in heavy labor after claiming work-related injuries had left them disabled. They all were fined and ordered to pay restitution. In another case, prosecuted in 2002, a Portland worker pled guilty to federal mail fraud and tax evasion after receiving $70,000 from MEMIC for his false disability claims. During the time he collected benefits, he worked secretly as a carpenter and did not report his income from the job. In 2006 a Lamoine lobsterman who lied about wages he received while collecting workers' comp benefits received a seven-month jail sentence for his crime. The judge said he imposed the penalty as a signal to other potential cheaters that workers' comp fraud would no longer be tolerated.

A member of MEMIC's fraud squad uses binoculars to zero in on suspicious behavior by a recipient of workers' comp benefits.

MEMIC has used, among others, a crack team of retired state police detectives to detect fraudulent claims. Team members do not trespass or "peek through the bushes," said Reggie Malloy, former director of MEMIC's investigators, but they do videotape suspected cheaters in public places.

Investigators also review hunting and lobster licenses as one of many creative ways of tracking cheaters. "Most hunters and most fishermen are honest people who are out there working hard on the days that they aren't hunting or fishing, so they would appreciate the fact that we're out there trying to protect the integrity of the workers' comp system and in effect saving the whole Maine economy money," said a MEMIC spokesman.

pioned since first opening its doors. Many insurers followed MEMIC's lead in adopting aggressive workplace safety campaigns and improved customer services. MEMIC, which had provided courses in safety for its policyholders for years, began marketing workplace safety training services to other employers. A subsidiary of the mutual company, MEMIC Safety Services, oversaw the new product line.

In July a state-funded study on workplace safety revealed that in addition to formal safety programs, a company's corporate culture, emphasis on quality, and good employee relations contributed to a superior safety record. Ken Goodwin of MEMIC Safety Services confirmed the importance of a company culture that embraced safety and other commendable values. He said MEMIC policyholders with the best safety records also had "many things you cannot touch and see, but they are there."

Although workers' comp rates in Maine remained higher than the average nationally, costs had decreased enough to put the state back in the running for business expansions and relocations. Tambrands, the manufacturer of Tampax tampons, told reporters in September 1996 that it would close plants elsewhere and make its facility in Auburn the hub of the firm's operations in North America. The expansion boosted the number of jobs at the Maine plant to 560, including 150 new positions. State officials credited the improved workers' comp market as one of the major reasons the international firm chose Maine as its manufacturing center. Tambrands's expansion in the state demonstrated that Maine was "in fact, a good place to do business and to make things," Governor King said.

In twelve months, beginning in the fall of 1995, the state attracted private investments of more than $1.5 billion, according to Thomas McBrierty, commissioner of the Department of Economic and Community Development, and state planning director Evan Richert. In an editorial published by the *Bangor Daily News*, the two state officials cited the "dramatically improving workers' comp situation" as one reason for the state's economic upturn. "From National Semiconductor in South Portland to Tambrands in Auburn to Georgia Pacific in Woodland to Lemforder in Brewer, sophisticated, world-class businesses are saying that Maine is a good place to invest and add jobs," the editorial said.

Maine's "Extraordinary Experience"

Governor King, speaking at a conference held in Maine by the American Association of State Compensation Insurance Funds in August 1996, described the state's "extraordinary experience" with workers' comp. Detailing the state's woes in 1992, Governor King recounted a system that was broken: rates among the highest in the nation, businesses faced with astronomical premiums if they were successful in finding insurers to provide coverage at all, and jobs lost. "The situation could not have been much worse," King told the audience. Attending the conference were representatives of workers' compensation insurance companies from twenty-seven states and eleven workers' compensation boards in Canada.

The creation of MEMIC—for which King credited his predecessor, John McKernan, and legislative leaders—and the company's tremendous success completely turned the situation around, King said. Thanks to the leadership of John Leonard and the dedication and enthusiasm of the MEMIC staff, the governor said, the state's workers' comp rates dropped steadily.

"MEMIC helped make Maine competitive with other states in the cost of doing business," the governor told conference members. King also praised MEMIC's successful campaign to make workplace safety part of the Maine business culture. Because of MEMIC's efforts, King said, "Maine's employees and employers have gotten together and taken responsibility for safety. And that's really the key."

COME TO MAINE—HERE'S THE DEAL

MEMIC president John Leonard believes in putting his money where his mouth is. In other words, his passion for Maine extends beyond his efforts to improve the state's workers' compensation system.

When the American Association of State Compensation Insurance Funds (AASCIF) lobbied MEMIC to join its ranks, Leonard negotiated a deal. The mutual company would become a member if the association agreed to hold its next convention in Maine. Both sides fulfilled their part of the bargain. The national organization held its 1996 annual convention in Portland, bringing five hundred people to the area and contributing an estimated $500,000 to the local economy. Greater Portland tourist officials touted MEMIC's successful ploy as an example to other local residents in attracting convention business to the area. In 1998 Leonard was elected to a two-year term as president of the AASCIF.

The 1996 event was remembered with great fondness by the attendees and their guests—so much so that the organization returned to Portland for its 2009 annual conference. That event, one of the largest conferences to meet in Portland in 2009, brought a much-needed boost to the local economy in increased business for Portland-area hotels, restaurants, shops, and other establishments, as well as contributing sales tax to state coffers. "When

MEMIC president and CEO John Leonard

a local person takes the initiative to invite their national organization to meet in Maine, the economic impact ripples throughout our community in many significant ways," said Barbara Whitten, president of the Greater Portland Convention and Visitors Bureau. "John Leonard and MEMIC have given our community a $1 million gift by inviting the American Association of State Compensation Insurance Funds to meet in Portland."

Pushing for Workers' Comp Changes

While businesses applauded the improvements in the workers' compensation system, complaints came from labor that it shortchanged workers. The Maine AFL–CIO charged that the system did not adequately represent injured employees. In voicing objections, the labor union targeted the requirement that forced injured employees to pay for their own attorneys. AFL–CIO president Charles O'Leary told the state's Labor Committee in the spring of 1997 that workers should have the "assistance of competent counsel" when presenting their claims.

The state shifted political gears as Democrats won control of the state legislature during the November 1996 election. Shortly after the votes were counted, Democratic leaders announced that they would push for a number of changes in the state's workers' comp system. Republicans, the governor, and business groups opposed one change in particular—a labor-backed bill to reinstate payment of attorney fees for injured employees who won their workers' comp cases in court. The state's two largest newspapers, the *Bangor Daily News* and the *Portland Press Herald*, urged lawmakers against making wholesale changes in Maine's workers' comp law.

The issue of employer-paid attorney fees for injured workers was among the toughest to resolve during the 1992 reforms. In the end, the legislature disallowed attorney fees because members believed the presence of lawyers created an adversarial atmosphere, greatly increased the cost of the system, interfered with mediation, and delayed settlements. Long after attorney fees were eliminated from the workers' comp system, labor representatives, lawyers, and other advocates for injured employees continued to press for their return. They argued that the system was inherently unfair because injured workers could not afford to pay lawyers to present their cases, while businesses and insurance companies had the capital to hire attorneys to represent them.

In part to address these concerns, the Workers' Compensation Board initiated a pilot project in 1996 to provide employee advocates to help injured workers with claims and other workers' comp issues. The advocates were not allowed, however, to represent workers at formal hearings if claims were disputed.

When the 118th legislature convened in 1997, lawmakers introduced dozens of bills to revise workers' comp. The most controversial was a bill introduced by Senator Peter Mills, a Republican representing Skowhegan, that would restore attorney fees for injured workers who won their cases. Workers who lost their appeals would have to pay their own legal fees unless the attorney agreed to work on a contingency basis, receiving payment only if the employee won the case. The bill was later amended to allow workers to bring attorneys to formal hearings only when employers did. Nearly two hundred people crowded into a hearing room to hear debate on the bill before the legislature's Labor Committee.

Commissioner of Professional and Financial Regulation Longley, representing Governor King, estimated that lawyers' fees allowed by the bill would increase workers' comp costs by at least $16 million a year. "Maine simply cannot afford to go this route," she told the lawmakers.

Supporters of the legislation argued that the much-touted decreases in workers' comp costs had come at the expense of benefits—including lawyers' fees—for employees hurt on the job.

Governor King announced that he would oppose all major changes to the workers' comp law and threatened to veto any bill that included the lawyers' fees provision. He said the previous system, which allowed the payment of lawyers representing injured employees, was a "job killer."

On May 22 the Senate rejected the bill on a 19-to-16 vote. During the debate leading up to the vote, Mills, a lawyer, said he believed the workers' comp system had moved too far in favor of employers, putting employees who had few resources at an unfair disadvantage. “Poor people are in a free fire zone when they enter the workers’ compensation system,” Mills said. He was the only Republican to vote for the bill in the Senate. Four Democrats voted against it. The House similarly rejected the measure in an 88-to-59 vote.

As an alternative, lawmakers approved a bill supported by Governor King to expand the employee advocate system to give workers more support when contesting claims. The legislation established a permanent employee advocate program of the Workers’ Compensation Board. The program, overseen by a full-time director, provides advocates to assist injured employees through the entire claim process, including formal hearings if necessary. The advocate program was based on similar agencies in other states.

Legislators rejected a bill that would have awarded lump sums to employees totally incapacitated by work-related injuries. Governor King vetoed another bill that would have allowed injured workers to obtain evaluations from their own doctor in addition to treatment by company-selected physicians during the first ten days after an injury. The governor made good on his pledge to uphold the careful compromise put in place by the 1992 reforms. The session ended with few other changes and no major revisions in the workers’ comp law.

By the end of 1997 more than 130 insurance companies offered workers’ compensation coverage to Maine businesses. Despite the competition, MEMIC continued to be the leading insurer, providing insurance to about 60 percent of all Maine employers not covered by self-insurance. While some had characterized the company the “insurer of last resort,” MEMIC had become the insurance company of choice, according to Richard Clark of Clark Associates, an insurance agency. “MEMIC did a superior job in loss control, handling of claims, and processing audits,” Clark said.

Lynn Wight, administrative assistant in MEMIC's claims department, one of many who serve MEMIC's clients with a smile and expertise in workers' comp issues.

The state's injury rate continued to drop, from 19,200 lost-time injuries in 1993 to fewer than 12,600 in 1997. MEMIC officials and other supporters of Maine's new workers' compensation system said that such statistics illustrated the state's remarkable strides in protecting workers during the more than five years the reforms had been in place. The number of injuries had dropped dramatically since 1993, they noted, even with the addition of more than 40,000 workers to the state's employment rolls. MEMIC leaders pointed with pride at the accomplishments of the firm's claims department, which provided support not only for injured workers but for their families as well. The success of the company's return-to-work program also demonstrated MEMIC's commitment to injured workers.

Maine headed into the final years of the twentieth century with a workers' comp system that had miraculously recovered from the near-collapse of the early 1990s. "It was really rather remarkable," said John Melrose, the consultant. In combination with the reforms—including the reduction in benefits—MEMIC "did a very good job of bringing the marketplace back to health," he said. "It has done everything we hoped it could do."

Chapter Seven

A Maine Miracle

1998–2002

MEMIC CELEBRATED ITS FIFTH ANNIVERSARY with plenty of good news. By 1998 the mutual company had compiled an extraordinary record. An impressive 18,600 policyholders had workers' compensation coverage through MEMIC. In January the company announced a rate decrease of 12.2 percent, the largest ever in its five-year history. In five years the company's policyholders saved more than 55 percent on workers' compensation costs. MEMIC met revenue projections despite the hefty rate reductions and competition from more than 140 other insurers. While employment in the state increased, the number of injuries requiring time off from work continued to fall. Loss-time injuries decreased dramatically, a 30 percent drop since 1993.

In its five-year annual report, MEMIC cited several programs as being instrumental in reducing workers' compensation costs. Among them:

- The "Partners for Workplace Safety" campaign, which over the course of six years had spread the word about safety in more than 15,000 paid safety announcements;
- thousands of free safety workshops;
- a 24-hour toll-free hotline for reporting claims;

- close scrutiny of medical bills and investigations of suspected fraud cases;
- the assignment of staff members rather than outside attorneys to handle complaints, which decreased litigation and reduced the cost of resolving disputes.

In January 1998 an editorial in the *Portland Press Herald* lauded the "champions of reform" for their leadership and vision in adopting workers' comp reforms and developing them into a system that worked. Singled out for their efforts in solving the workers' comp crisis were former Governor John McKernan, the Maine State Legislature, the Blue Ribbon Commission, business and labor groups, MEMIC and its president John Leonard, and Governor Angus King. The newspaper called MEMIC's transformation of the workers' comp system a "Maine miracle." The Workers' Compensation Board also praised MEMIC, declaring the company "substantially better than its competitors with on-time payment of benefits to injured workers." The board's statistics showed that MEMIC's record of getting benefits to injured workers quickly was 46 percent better than the state's other commercial insurers of workers' compensation.

Governor King added his plaudits during a press conference on April 10, 1998. Calling the creation of MEMIC a "bold experiment," King said the 1992 reforms and the company had been largely responsible for "bringing the [workers' compensation] system back from the brink." Earlier in the week the governor had vetoed a bill that would have added cost-of-living adjustments to workers' comp benefits distributed to injured employees with total or partial work-related disabilities. S. Catherine Longley, commissioner of the Department of Professional and Financial Regulation, pledged that King would continue to back the system enacted in 1992. "The administration," she said, "has been vigilant to keep reforms in place."

Expressing another view, Charles O'Leary of the Maine AFL–CIO called the 1992 workers' comp reforms "draconian" in their treatment of injured workers and said that labor representatives would continue to push for new reforms that favored workers. He acknowledged, however, that "anything we can get to the governor's desk is going to be vetoed."

Unprecedented Step: Capital Returned

In June 1998 MEMIC took the unprecedented step of returning $5.1 million in surplus cash to its policyholders. The money represented a partial return of the $47 million that policyholders had been assessed to help launch the company in 1993. More than 32,000 employers received checks ranging in size from $150 to $16,000. The company pledged to return, over a five-year period, the full amount owed to eligible policyholders.

President Leonard announces the return of capital to MEMIC policyholders at a June 1998 press conference.

"The return of capital by MEMIC marks the most recent and significant chapter in the history of this employer-owned and governed company," MEMIC president Leonard declared at a press conference on June 15. "All who have been associated with this organization, particularly the policyholders and their employees, can take great pride in this tremendous accomplishment."

The *Portland Press Herald* greeted the refund as "a sure sign of the continuing success of the reforms the Maine Legislature passed." When MEMIC formed in 1993, the company was given ten years to become adequately capitalized. MEMIC accomplished that goal in half the required time. In May 1998 the Bureau of Insurance certified that MEMIC had achieved financial stability, with capital adequately covering expected payoffs. MEMIC's ratio of premium to surplus, according to the bureau, matched that of many of the nation's leading insurance companies.

At a luncheon celebrating MEMIC's first five years of operation, president Leonard thanked the company's employees for its accomplishments and for "helping to make Maine a safer and more affordable place to work."

More Progress

The year 1998 also marked major progress in the residual pool controversy that had simmered for a decade—yet another indication of the strides made in the state's workers' compensation system. In October Maine officials announced a settlement in a lawsuit filed in 1995 by thirty-three small insurance companies over their assessed payments to cover the debt incurred by the residual pool between 1988–1992. Under the settlement, the state agreed to pay refunds of more than $6 million to those smaller companies that paid their assessments, with the first checks to be issued at the end of 1999. The refunds were possible, state officials said, because the pool's losses due to claims from 1988–1992 were less than expected and because of the recovery in the state's workers' comp market and improvements in the economy overall. In 2001 the state discontinued the surcharge employers paid toward the pool's liabilities more than three years ahead of schedule. Steven Hoxsie, executive director of the Maine Workers' Compensation Residual Market Pool, which managed the claims, said the actual deficit turned out to be only $160 million. At one time experts had projected that the pool's liability could amount to as much as $1 billion.

In 1999 MEMIC again refunded the capitalization surcharge paid by employers, this time returning $15.5 million to its policyholders. "We agreed that the money should be paid back to the employers. It belonged to them," said board member Thomas Moser. "Very few insurance companies would have done that. It was a remarkable act." In its annual report

COMMON SENSE ADVICE

While the task of bringing workers' compensation costs under control was dauntingly complex at times, sometimes the answer came down to simple common sense. During the winter of 1999, MEMIC mailed one-pound packets of ice-melting pellets to two thousand of its policyholders with some very simple instructions: "Shovel it. Sand it. Salt it."

Noting that hundreds of workplace accidents involved workers who slipped and fell on the ice, the company urged its policyholders to take simple preventive measures.

"Removal of snow and ice is common sense. But all of us need a reminder that we need to be careful during these months," Dan Cote, then MEMIC vice president for loss control, said in a MEMIC press release.

Along with the mailing, the company launched a radio advertising campaign urging safer winter driving habits that included leaving more space between cars, clearing windows of ice and snow before driving, and staying off the road during hazardous conditions.

for 1999, MEMIC cited several high points including the return to work of 703 seriously injured employees and a capital surplus of $114 million.

While there were many positives in 1999, rising costs forced insurance companies to ask for rate increases in workers' compensation premiums that year, the first hike in the rates since 1992. The National Council on Compensation Insurance cited two reasons for the hike: changes in state law that made insurers responsible for paying benefits beyond 260 weeks and an increase in claims and a revision in the claims estimates for previous years. The Maine Bureau of Insurance trimmed the NCCI-backed rate hike request from 13.5 percent to 10.3 percent. Even with the hike, rates remained far lower than they were in the early 1990s before the reforms went into effect.

For the first time MEMIC earned an "A" or "excellent" rating in 2000 from A. M. Best, the insurance industry's respected benchmarking firm. Commenting on the accomplishment, MEMIC president Leonard said the rating showed that the company was strongly capitalized and operating soundly. Leonard said Best cited MEMIC's growth as well as its plans for the future in awarding the high rating.

The company continued its focus on safety. Spending twice as much on safety education as its competitors, MEMIC conducted nearly three hundred educational workshops attended by 7,000 employees. Company representatives also made 5,000 visits to Maine workplaces to provide them with safety information.

P. D. Merrill, president of Merrill Industries, appeared in one of a series of MEMIC ads that highlighted the importance of safety programs. "MEMIC," Merrill said later, "is constantly helpful in guiding our company to the safest work practices and most effective training programs."

Beyond Maine's Borders

With the success of the workers' comp reforms, MEMIC's leaders began looking beyond Maine's borders to expand their remarkable program. With the support of Governor King, legislation to allow MEMIC to establish a subsidiary to do business in other states received favorable response from Maine lawmakers. The bill, sponsored by a bipartisan coalition of lawmakers headed by Democratic Senator John Nutting and Republican Representative Joseph Carleton, won passage in 1998. Governor King heartily endorsed the company's plans to expand, which he said represented "a milestone in one of the great business success stories in Maine in this decade." MEMIC president Leonard said King told company officials that they should "just take this wonderful Maine product and export it all over the country."

Governor King signs legislation to allow MEMIC to expand to other states. On hand for the signing, from left, MEMIC president John Leonard and board member Helen Sloane Dudman, State Representative Joseph Carleton, Chamber of Commerce president Dana Connors, and Maine Bureau of Insurance superintendent Alessandro Iuppa.

Legislation also eased restrictions on the MEMIC board and made it easier to operate the company. Among other things, the statute reduced the number of directors from thirteen to nine, eliminated the eight industry divisions and replaced them with general industry groups, and allowed MEMIC to extend coverage to out-of-state workers employed by Maine businesses.

Taking good advantage of the legislation, the company created a new subsidiary, MEMIC Indemnity Company, a stock company with its stock owned by the parent company. Relying on the expertise developed by MEMIC in Maine, the subsidiary offered only one product: workers' compensation insurance. In 1999 the company applied for permission to launch the subsidiary in neighboring New Hampshire.

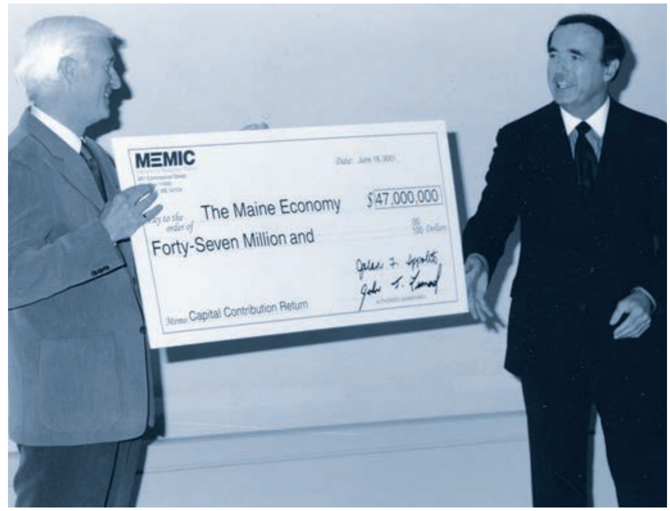
The campaign to open a New Hampshire subsidiary heated up when Liberty Mutual Insurance Company vehemently opposed MEMIC's application to enter the market there. The insurance company, a competitor for workers' compensation business, testified at the license hearing that MEMIC's subsidiary would be controlled by Maine interests. The only real connection to Maine was that two (out of nine) of the parent company's board members were appointed by Maine's governor. After Liberty's opposition was made public, the trade press pointed out that Liberty Mutual was itself originally a creation of the Massachusetts state legislature.

New Hampshire officials granted the firm's license in May 2000. MEMIC Indemnity issued its first policies the following September. The company, based in Manchester, New Hampshire, contracted with established agents in the Granite State to sell and service its policies. Customers had access to the full range of MEMIC services, from safety programs to workplace surveys to a formal training program. Judging from the positive response from New Hampshire employers, it was a niche that needed to be filled by a company of MEMIC's stature. "We've had a wonderful reception," MEMIC president Leonard said of the out-of-state expansion. He said the subsidiary's business has benefited from MEMIC's good reputation in workers' compensation. "We're known as a first-class carrier," Leonard said. He said that MEMIC formed the New Hampshire business in part to diversify the company and provide increased stability. During its first full year in business, MEMIC Indemnity wrote almost $6 million in premiums.

A Proud Day

In 2001 MEMIC made good on its promise to return the last of the $47 million it had collected in capitalization surcharges from employers to help finance the company initially. That July the company mailed $7.2 million in checks to more than 3,000 employers.

"This is a proud day for our company and it should be a proud day for Maine," president Leonard stated in a press release. "This money, which most policyholders never expected to see again, is now going back into the Maine economy where it does the most good for the people of our state." Starting with no assets, MEMIC had achieved complete economic stability in less than ten years—an almost unbelievable feat.



Dana Connors, left, president of the Maine Chamber of Commerce, accepts a symbolic check from John Leonard for $47 million, the amount MEMIC returned to the Maine economy when the company repaid the capitalization surcharge borrowed from policyholders.

The company realized several other achievements that year including another "A" rating from A. M. Best and a 10 percent increase in the number of policies. In February Standard & Poor's, a financial services firm, rated MEMIC as having "extremely strong capitalization, excellent operating performance, and a sound reinsurance program," based on public information available on the company. Leonard put MEMIC on the international stage in 2001 when he was named to the board of directors of the Association for Cooperative Operations Research and Development (ACORD), a nonprofit developer of standards for the insurance industry worldwide. He also served on the boards of the Maine State Chamber of Commerce and the Pine Tree Council of the Boy Scouts of America, which awarded him the Distinguished Citizen Award in 2001. Leonard was inducted into the Maine Business Hall of Fame in 2003.

MEMIC continued to employ leading-edge technology in 2001 to make it easier to find and process information. That year the firm installed a system to transfer many of its documents to computer files, reducing the amount of paper that had to be stored. It also began preparations for a data warehouse that would provide MEMIC underwriters with easier access to the information they needed. Traffic on the company's website grew as more policyholders took advantage of the option to report claims

Scott Hannigan of Westbrook, and his mother, Karen Hannigan. Scott, a MEMIC Horizon Scholarship winner in 2003, graduated from the University of Vermont and is now a successful physical therapist at Orthopaedic Associates in Portland. He holds a doctorate in physical therapy from the University of Vermont. Karen Hannigan has been unable to work due to carpal tunnel injuries to both of her wrists.

online. Almost half a million "hits" on the site demonstrated its popularity among clients, agents, and others with an interest in workers' comp. These technological advances allowed the company to offer its policyholders greater services while reducing operating costs, helping to keep its expense ratio well below the national average.

Also in 2001 MEMIC launched its Horizon Scholarship program designed to help children and spouses of injured workers. That year Crystal Young of Buxton and Jessica Poitras of Portland became the first to receive $2,500 college scholarships through the program. In presenting the scholarships, MEMIC officials noted that workplace injuries affect the entire family. As of 2012 MEMIC had awarded a total of $90,000 in scholarships to family members of injured workers.

Court Case Raises Concerns

Early in 2002 a court ruling threatened to undermine much of the progress made in reducing workers' compensation costs. On February 6 the Maine Supreme Judicial Court ruled that workers' compensation insurers had to consider injuries suffered by employees off the job when determining whether an employee qualified for lifetime compensation benefits. Previously only work-related injuries had been eligible for benefits.

The ruling came as a result of two similar lawsuits involving workers whose pre-existing conditions were found to have been exacerbated by on-the-job injuries. In the first case a security guard named Arthur W. Kotch suffered a back injury in 1994 while working for American Protective Services. Thirteen years before, Kotch had sustained a knee injury during military training with the Marine Corps. As a result of his workplace injury, Kotch received workers' comp benefits for partial incapacity for five years. At the end of that time, his employer sought to terminate Kotch's benefits.

Under the state's workers' comp regulations, benefits for partial incapacity ended after five years, provided that the injured worker had no more than 11.8 percent permanent impairment of his or her entire body. American Protective Services maintained that Kotch's previous injury should not be considered when figuring his entire impairment and his workers' comp benefits. The Workers' Compensation Board hearing officer who decided the case ruled that the combination of the two injuries qualified Kotch for lifetime benefits. According to the hearing officer, the work injury left Kotch with a 10 percent impairment of his whole body. However, when factored together, both injuries resulted in an impairment of 20 percent.

The second case involved a man named Donald Wheeler, who worked for Hartt Transportation Systems and was injured on the job in 1996. He had several previous injuries, including a gunshot wound in his hand, a knee injury, and a back injury. Wheeler received benefits for partial incapacity, but in 1999 Hartt petitioned to have the Workers' Compensation Board determine the extent of his injuries. The hearing officer ruled that Wheeler had 10 percent incapacity caused by his 1996 injury, but his total body impairment was 17 percent, based on the combined effects of the

1996 incident and the previous injuries. That made him eligible for lifetime benefits.

The two employers appealed the board's rulings, and the cases were eventually heard by the Maine Supreme Court. In both cases, the court affirmed the decision of the hearing officers. The court based its ruling on a section of the Maine workers' compensation statute which stipulated that an injured worker is entitled to benefits "for the duration of the disability" if his or her permanent impairment "resulting from the personal injury" is greater than 11.8 percent of the body. According to the court, pre-existing conditions could be considered when the work injury contributed to the overall disability "in a significant manner."

The ruling cited the legislature's intent to consider the condition of an injured worker's whole body instead of calculating the loss of individual parts when awarding benefits. To illustrate that concept, the court noted that the disability caused by the loss of an eye by a person who had already lost an eye would be far more devastating than the loss of each eye considered separately.

The effect of the ruling greatly increased the number of injured employees qualifying for lifetime benefits. The NCCI estimated the ruling could cost an additional $45 million in immediate claims and between $160 million and $240 million in retroactive claims. The additional claims could lead to a 15 percent increase in overall workers' compensation costs. That would make the Maine workers' comp system the third costliest in the nation, said Commissioner Longley. She said she believed Maine was the only state in the nation to allow injuries unrelated to the workplace to be considered when figuring benefits.

"This will be the final nail in the coffin for workers' comp coverage as we currently know it," MEMIC president Leonard told a reporter when the story broke. The ruling, he said, was "devastating" and would undo all of the progress made in the past ten years in reducing the cost of workers' comp insurance. MEMIC warned that allowing nonwork injuries to be used in calculating benefits opened up "a Pandora's box." Employers and insurance companies would have no way of predicting the amount of assets needed to be set aside for future payoffs without data on employees with pre-existing conditions, the company maintained.

In response to the court's action, Governor King submitted a bill to the legislature to modify the law that led to the court's decision in the Kotch case, effectively overturning the ruling. Under the proposal, injured workers could still apply for benefits based on the cumulative effect of more than one work-related injury but could not apply nonwork-related injuries to the mix. The Maine Chamber of Commerce backed the legislation, calling it the "most important bill of the session for the business community." In a strongly worded editorial, the *Portland Press Herald* urged passage of the bill. Otherwise, the editorial said, Maine employers would have to pay for injuries they could not prevent and for which they were not responsible. "There's no justice in that for anyone," the editorial concluded.

Employee groups, including the Maine AFL–CIO, however, praised the court decision and opposed the bill. The labor organization argued that the 1992 reforms designed to streamline the system tilted the scale too much in employers' favor. They charged that the reforms and the resultant reductions in costs had been made on the backs of injured workers, who were not receiving the benefits they deserved.

The legislature's Labor Committee responded with a compromise bill that eliminated benefits for nonwork-related injuries but increased some worker benefits, including an extension of payments for partial impairment from a maximum of five years to ten years. A frustrated Governor King threatened to veto the bill, which he said would cost as much as leaving the court ruling in place.

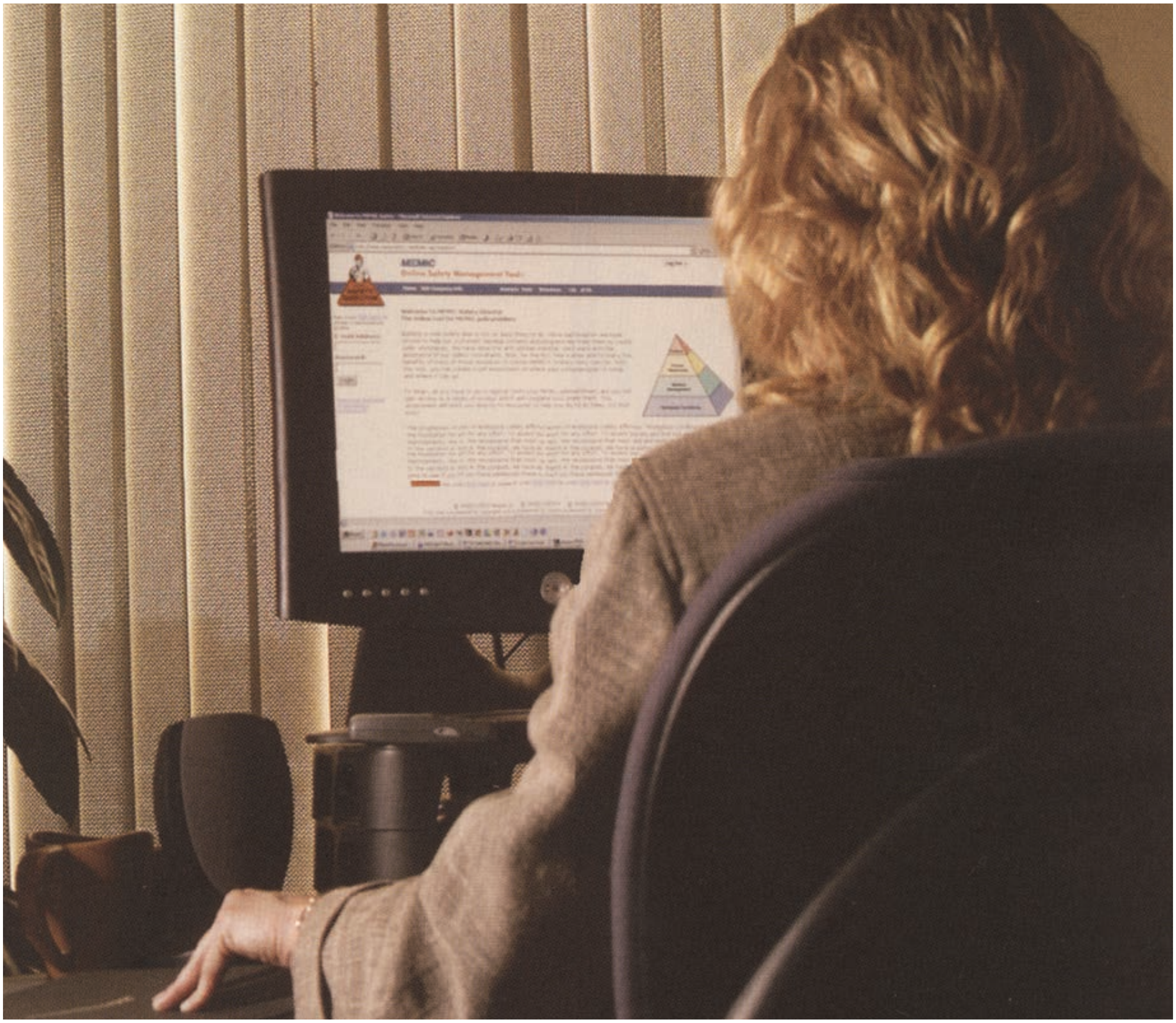
While the legislature debated the issue, uncertainty over the future of workers' compensation left the state's business community in turmoil. Businesses had no idea what would happen to their insurance premiums. In some cases, commercial insurance carriers refused to renew policies. As it had in the past, MEMIC picked up the slack, writing policies for many of the businesses that otherwise would have been left without an option in the commercial insurance market. By the end of the year MEMIC was providing workers' comp insurance for 70 percent of Maine's businesses.

The legislature adjourned without resolving the issue, but Governor King called a special session to work out a compromise. On April 25, 2002, the Maine Senate and House each passed separate reform bills, but both proposals came under criticism from labor and business leaders. The following day legislators crafted yet another compromise, which both houses approved. The new bill, signed into law by Governor King, eliminated benefits for nonwork-related injuries but allowed previous workplace injuries to be taken into account when determining eligibility for lifetime benefits in the future. To be considered, however, the previous workplace injury had to have taken place in Maine. The legislation also stipulated that the change in benefits would not be retroactive.

While the compromise ended the immediate crisis, participants on both sides said it did not resolve the issue. The union vowed to repeal the legislation by seeking a "people's veto" of the law. Later that fall, however, the union dropped its campaign against the law to spend more time on the 2002 gubernatorial election.

Technology Advances

Technological advances in 2002 streamlined MEMIC's claims handling and bill processing and eased customers' access to a wide range of services. With a click of the mouse, policyholders could develop their own personal-



ized safety programs using MEMIC's online model. Employers with safety programs already in place could use the online features to rate their effectiveness and find MEMIC resources designed to make the workplace safer.

During the summer MEMIC broke ground as the first to use an innovative billing system that both simplified and sped up the process. Developed by Health Management Online Inc., a Connecticut firm, the Internet program automatically cross-indexed bills from doctors and other health

Computer technology speeds MEMIC's ability to process claims, distribute safety information, and improve billing.

care providers with pertinent patient care information to produce accurate billing within minutes. The system replaced a time-consuming paper-based billing system that had been standard in the industry. Because the new system delivered communications via the Internet, medical providers and others could post bills around-the-clock.

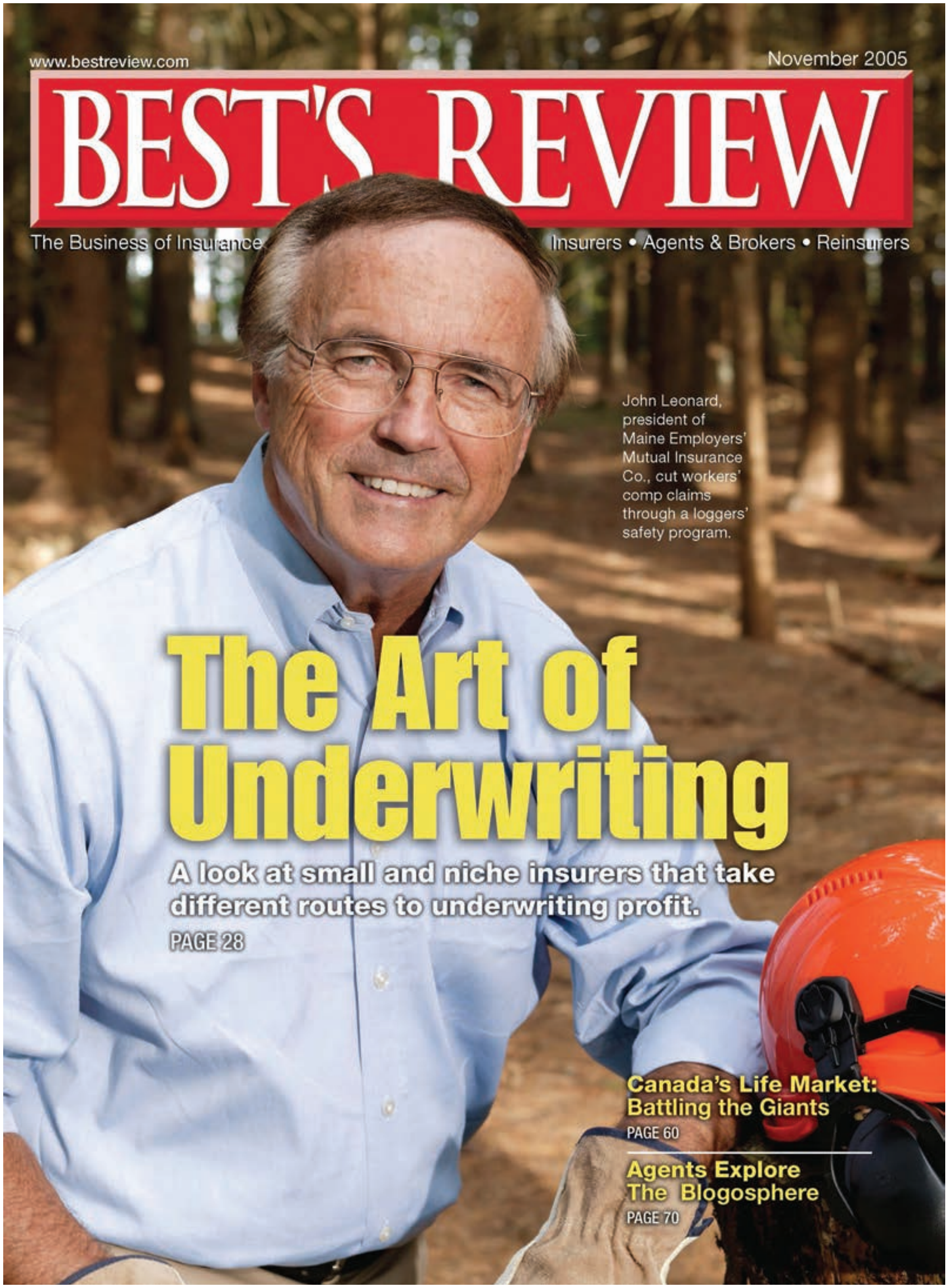
Health Management president Bill Chesley said his firm chose MEMIC for its trial run because of the mutual company's reputation "as an innovator that wants to remain in the forefront of insurance information technology." John Marr, MEMIC's vice president of claims, said the company had already seen benefits from using the new system. The automated service helped cut costs by reducing workloads and improving workflow as well as allowing MEMIC to respond more quickly to policyholders and injured employees. "This is the right strategy at the right time because it enables us to control workers' compensation premiums while delivering the high quality service that employers and injured workers expect," Marr said.

Dividend Checks and Financial Kudos

MEMIC ended its tenth year in operation with a surprising and much-appreciated gift to policyholders: the first dividend checks. In December the board of directors announced a dividend of 6 percent of earned premium to be paid in 2003 to all eligible policyholders. That amounted to around $6 million to be distributed to employers who relied on MEMIC for workers' comp coverage. Not only had MEMIC cut workers' comp rates and reduced injuries, it had also succeeded in controlling costs and sharing the savings with its policyholders. MEMIC would continue to pay out dividends in the years to come.

Further confirmation of the company's financial stability came from two industry sources. A. M. Best once again awarded MEMIC an A rating for excellence, indicating the company's secure financial position. MEMIC also became a member of the Ward 50 for the first time. The honor, a mark of stellar financial performance, goes to the top 2 percent of insurers in the property and casualty insurance market. The Ward Group, an insurance consulting firm based in Cincinnati, Ohio, annually selects the best performing insurance companies nationwide for the award.

John Ward, president of the Ward Group, credited MEMIC's "strong underwriting results and excellent expense management." President Leonard said the company was thrilled by the recognition. "We've set a goal to be the best performing insurance company in the country," he said, "and this shows us that we're among an elite group."



In November 2005 the financial institution A. M. Best ran a photo of John Leonard on the cover of its magazine and included MEMIC on a list of "superstar companies."

Chapter Eight

A New Decade: Looking Back, Striding Forward

In 1993 when Maine Employers' Mutual Insurance Company first opened its doors, the state's workers' compensation system was in shambles and Maine businesses were in crisis. National insurance companies, turned off by high losses and uncertainty over legislative remedies, had withdrawn from the state's workers' compensation market, threatening to leave many Maine businesses without coverage. Injuries to Maine workers occurred at the highest rate in the nation, and those injured missed twice as much work as employees injured elsewhere. The death rate among the state's workers was much higher than in most other states.

A decade later, MEMIC could legitimately throw a big birthday bash to celebrate its amazing success: 70 percent of the state's employers had workers' comp insurance with MEMIC; 241 insurance companies, attracted by MEMIC's track record, were licensed to provide workers' comp coverage in the state; premium rates had dropped by 34 percent; MEMIC's premiums reached nearly $180 million for the year; injuries were down by 30 percent; and MEMIC announced a second annual dividend to be paid to policyholders. The company retained its membership in the Ward 50 and its A rating from A. M. Best. Its annual operating costs remained at about 70 percent of the average yearly costs of other firms in the industry.

Many employers and employees embraced MEMIC's campaign to make workplaces safe. In 2002 almost 10,000 people attended 426 MEMIC workshops on safety held throughout New England. Even with an increase in jobs, Maine workplaces continued to have 30 percent fewer injuries than in the days before MEMIC began its safety program. In addition to reducing deaths and injuries, MEMIC focused on fair treatment of Maine's workers. A comprehensive online system improved customer service and allowed the company to service claims more quickly. MEMIC consistently paid benefits on time more than 90 percent of the time, well ahead of the national average.

Viewing the accomplishments of the past ten years, MEMIC's president John Leonard talked proudly of building "a culture of success and cooperation" in Maine workplaces that produced safer working conditions, better treatment of injured workers, and higher regard for employers' financial burdens and other stresses.

"The relationship between employer and worker has changed dramatically," Leonard noted. "Both share a common interest now, a common goal in avoiding injury. When an injury does occur, they have a common interest in providing the best medical attention available for employees so that they can return to work."

MEMIC's successful safety campaign saved lives and changed the working conditions for thousands of Maine workers, advertising executive Meredith Burgess said. "By implementing safety programs and premium incentives, particularly in Maine's hazardous logging industry, many of the worst injuries and deaths have been avoided, and safer work practices are now standard throughout the pulp, paper, and lumber community," she said. MEMIC spent twice as much as most insurance firms on safety programs and other loss control measures (as much as 35 percent of operating expenses).

"MEMIC is a success," proclaimed Governor John Baldacci, who as a state senator helped form the legislation that set the stage for the company's creation. The company, Baldacci said in 2003, not only exceeded the expectations of the legislature but also served as a national model for workers' compensation. "I appreciate MEMIC's leadership," he said.

Governor John Baldacci proclaimed in 2003 that MEMIC was a success.

A "Superstar" Company

MEMIC won national recognition and President Leonard scored a public relations coup in November 2005 when A. M. Best ran his photograph on the cover of the financial institution's magazine, *Best's Review*. The image showed a smiling, casually dressed Leonard wearing safety gloves and posing in the Maine woods. A MEMIC safety helmet sat on a stump next to him. Emblazoned across the cover was the headline "The Art of Underwriting: A look at small and niche insurers that take different routes to underwriting profit."

The feature story focused on top-rated niche insurers—"superstar companies"—operating in the commercial property and casualty lines. The article detailed the effectiveness of MEMIC's safety programs in preventing injuries, cutting costs, and reducing claims. MEMIC was touted as the third most successful underwriter in its field nationally over the past ten years.

MEMIC received plaudits for its commitment to workplace safety, which the magazine credited for the company's impressive financial standing. "We look more like a loss-control company than an insurance company," Leonard said in the article. The cover story served as yet another indication of MEMIC's standing in the insurance industry. In a business with hundreds of competitors, MEMIC had risen to the top.

Ethics Matter

While celebrating the accomplishments of its first decade, MEMIC's leaders looked ahead and implemented strategies and programs designed to keep the company strong. As the issue of business ethics began to gain national attention, MEMIC's board adopted an official code of ethics. The document, approved in 2004, set forth ethical guidelines to be followed by all employees, board members, and officers of the company. This code formalized the adoption of values that were already deeply ingrained in the company's culture. Among other things, the code requires that MEMIC advertisements be truthful, estimates be fair and reasonable, and all MEMIC representatives avoid situations that might be or appear to be a conflict of interest. MEMIC directors, officers, and employees are prohibited from accepting bribes or other such payments and are discouraged from publicly disparaging competitors and their products and services. All directors, officers, and employees, including the president, are required to sign the code. They pledge to act with integrity, be honest and candid, maintain confidentiality where required, adhere to a high standard of business ethics, and observe "both the form and spirit" of laws, standards, regulations, and policies.

"We will always do the right thing simply by focusing on the best interests of our customers and their workers," said MEMIC president Leonard. "This document puts in writing our pledge to operate in a manner that brings credibility to and confidence in our organization."

MEMIC employees carried their commitment to ethical behavior even further in their dedication to causes benefiting the community.

Among other charitable activities, MEMIC employees run a campaign each Christmas to collect toys for needy children. Their efforts produce hundreds of gifts annually for the cause. After Hurricane Katrina devastated huge areas of Louisiana, Texas, and Mississippi in August 2005, a volunteer team of MEMIC workers spent three weeks assisting in Red Cross relief work and cleanup in the affected areas. "MEMIC employees' generosity is amazing," said president Leonard. "They are always quick to rally to causes. The culture of the company is to help others."

National Growth

Donald Hale, Senior Vice President, Underwriting, and Chief Operating Officer, MEMIC Indemnity Company

Throughout MEMIC's second decade, the company continued the push to expand its reach into other states. In 2004, after only four years in operation, the company's start-up subsidiary, MEMIC Indemnity, posted a profit, which in turn contributed to the overall bottom line. Donald V. Hale Jr., the company's senior vice president for underwriting, was appointed chief operating officer of MEMIC Indemnity Company in 2005 and charged with leading the burgeoning growth. New offices in Glastonbury, Connecticut, and Albany, New York, opened in 2007 to join the subsidiary's original headquarters in Manchester, New Hampshire. By then MEMIC Indemnity had licenses to sell workers' comp insurance in forty-two states.

Getting a license required hard work, but MEMIC's reputation helped smooth the road, said MEMIC president Leonard. For each state license MEMIC had to complete an application that included hundreds of pages of supporting documentation. The licensing process consumed years in some

FUN AND FUNDRAISING FOR CHARITY

Even during the busiest times, MEMIC managers realize the importance of fun at the workplace. While still in Westbrook, the MEMIC team celebrated their "gung-ho" attitude by holding "Western Day." Wearing cowboy hats and other western attire, the whole MEMIC crew chowed down on burgers at a cookout on the office lawn.

Jean Tilton of the underwriting department sits among Christmas presents collected by MEMIC employees for needy children.

When the company moved to Portland, the team began a new tradition—a Waterfront Day held in the fall to celebrate MEMIC's location alongside the city's harbor. The other seasons are also well-represented with a spring fling, a summer outing, and a winter holiday party. At each outing, new employees stand before the crowd and don a company hat, proof that they have become official members of the MEMIC team.

Employees continue to gather at a local bistro after work or join in one of the many weekend events, including Boston shopping trips, Sea Dogs games, and white-water rafting.

"We're never short on finding a reason to celebrate hard work and dedication," said Lynn Emery Wight, administrative assistant in MEMIC's claims department.

The MEMIC team boosting the United Way.

MEMIC's manager of corporate relations, Paula Saabye, recalled the cookouts, boat cruises, picnics, birthday parties, and island outings. "MEMIC is not simply a place of business where you exist with coworkers. It's a real Maine company where you collaborate with friends," she said.

Community projects are undertaken with zeal. MEMIC employees provide Christmas gifts for Portland-area families each year, camp overnight to raise money for the American Cancer Society, and participate in the annual United Way campaign, blood drives, fundraisers for the Boys & Girls Club and Youth Alternatives, the Beach to Beacon 10K road race, and other activities. "We don't just ask people to donate," said Wight. "We make it a fun event—from ice cream socials to selling balloons with notes for special coworkers."

Whether at work or at play, MEMIC employees share an appreciation for the company and the friends they have made among their coworkers. "MEMIC truly is a big family," said Wight. "I could never ask for a better company to work with."

Members of the claims department of MEMIC's subsidiary, MEMIC Indemnity, stand ready to help clients in the Manchester, New Hampshire, office. From left: Matt Harmon, director; Jeff Rasanen and Mary Chmieleski, compensation specialists.

regions of the country. "It was a workout," he said. When state regulators finally awarded the sought-after license, MEMIC employees celebrated by playing the pertinent song: *Sweet Home Alabama*, Frank Sinatra's *New York, New York*, a robust rendition of *Oklahoma*. The choral performances boosted morale among employees and encouraged them to keep working for licenses in more states.

In 2009 the subsidiary joined forces with MMG Insurance Company, a regional property and casualty insurer based in Presque Isle, Maine, to offer a comprehensive insurance package to businesses in New Hampshire and Pennsylvania. MEMIC Indemnity provided workers' comp coverage, while MMG filled employers' other commercial insurance needs. Insurance agents working with MEMIC and MMG promoted each other's insurance products as a result of the affiliation. The first joint-coverage packages became available in January 2010.

As 2011 came to a close, MEMIC announced that it was expanding its operations on two fronts. As the fifth-largest underwriter of workers' comp policies in New England, the MEMIC Group positioned itself for expansion into the mid-Atlantic states through MEMIC Indemnity. The company announced the opening of new offices in New Jersey and Pennsylvania in 2012. Its New York office already ranked among the fastest-growing underwriters of workers' comp business in that state. "At a time when some companies are continuing to shrink, our MEMIC Indemnity Company unit has grown by more than 25 percent this year," MEMIC president Leonard said in 2011. "Our expansion into the mid-Atlantic is a natural progression for our company." He said independent agents in those areas had begun seeking MEMIC policies even before the opening of the new offices.

Daniel J. McGarvey, who had joined the company in 2009 as senior vice president for finance, led the acquisition of Granite Manufacturers Mutual Indemnity Company, a Vermont-based insurer, in mid-December 2011. Renamed MEMIC Casualty Company, the firm became a MEMIC subsidiary. It operates out of the Portland, Maine, office and offers agents in Vermont more options for doing business with MEMIC, president Leonard said. The new subsidiary wrote its first policy in May 2012.

Twenty years after the crisis that triggered the reforms in Maine's workers' compensation system and gave birth to the Maine Employers' Mutual Insurance Company, the MEMIC Group oversees its original mutual company and several subsidiaries, controls substantial real estate holdings, and boasts assets exceeding $800 million. MEMIC continues to serve Maine employers, while the MEMIC Group is licensed to write workers' compensation insurance in forty-five states and the District of Columbia, and supplemental insurance in four states where the government provides workers' comp insurance. MEMIC Indemnity applied for a license in the last state, Alaska, in 2012.

The company hopes to acquire one or two additional subsidiaries in the future, Leonard said. Such expansion, he said, will sustain MEMIC's momentum and help prepare the company for gains in the future. "This is a Maine business going global."

"SPACE COWBOYS"

MEMIC Indemnity has become the fastest growing provider of workers' compensation in New York. One reason for the company's success is MEMIC's reputation for excellence in its financial dealings, claims processing, and safety programs. Because they believe in the company's mission, President John Leonard and the MEMIC team have no trouble conveying their passion to potential customers.

This became apparent when Leonard and John Marr, senior vice president of claims, presented MEMIC's case to a board of directors during a recent sales trip to New York. Marr and Leonard, who together have more than half a century of experience in the field, came up against a team of young executives from a competing company. The slick-looking thirty-somethings produced a show for the board that featured all the bells and whistles of cutting-edge technology. Leonard said he felt as if he and Marr were Space Cowboys, a group of retired aviators featured in a movie by the same name who set out to rescue a failing satellite. They are pitted against a team of much younger NASA astronauts on the mission.

"Do I look that old?" Leonard wondered. But his pride in MEMIC's quality of service and his determination to make MEMIC a household word across America never faltered. "Guys on a mission," he acknowledged, "are dangerous."

John Leonard and John Marr

When it was their turn, the two MEMIC executives told the board members of MEMIC's long track record, its accomplishments, and its stature in the industry. They presented MEMIC as it is: a seasoned company that has proved its expertise in workers' comp for the past two decades. Many of the board members who sat across the room turned out to be as old or older than the MEMIC executives.

After the presentation, one board member told Leonard and Marr that he felt comfortable with them and believed he could trust them. Like the original Space Cowboys, Leonard and Marr outperformed the younger team. And MEMIC won the contract.

MEMIC construction specialist Sonny Curtis, right, reviews job site safety standards with a Mainely Vinyl employee.

Chapter Nine

A Better, Safer Place to Work

Since its beginnings, MEMIC had sought out and developed new programs and creative ways to promote safety on the job. In its second decade, MEMIC continued the push to improve workplace safety, greatly expanding its efforts to include many types of businesses. The company's Construction Certification Program, modeled on a similar initiative set up for the logging industry, addressed an increase in the number of serious injuries among small home-builders. The program focused on practical precautions to reduce risks, including the use of scaffolding with a full rail system to protect against falls. MEMIC's construction specialists visited hundreds of job sites each year to advise employers and workers on safety strategies and evaluate their work sites. As attitudes toward safety began to change, contractors who participated in the certification program created safer working conditions for themselves and their employees. They also benefited from lower workers' compensation rates as the number and severity of injuries declined dramatically.

A unique safety program designed especially for small businesses helped improve on-the-job safety at firms with no more than fifteen workers. Employers could request a personalized assessment of their workplace, which included a nine-step safety program. They could also make use of MEMIC's fact sheets on safety and small business, have access to safety videos, attend educational workshops, and utilize web-based materials and assistance.

MEMIC's Safety Academy, accredited by the International Association of Continuing Education and Training in 2003, offered a wide range of workshops, educational programs on workplace safety, and other courses required by industries to maintain professional certifications. The online Safety Director allowed MEMIC customers to analyze their organizations' safety practices via the Internet. The free service provided practical information to make workplaces as safe as possible. Safety consultants trained by MEMIC in twenty-two industries inspected workplaces and offered advice in business management as well as safety. MEMIC's safety professionals conducted more than eight thousand surveys at business locations throughout the state in 2004.

Maine's most serious workplace traffic accident claimed the lives of fourteen migrant woods workers in September 2002. The fatalities occurred after a van in which fifteen workers were riding veered off the John's Bridge and flipped into the Allagash Wilderness Waterway in northern Maine. Only one worker survived by kicking out the rear window of the van and swimming to shore. Although the accident did not involve a MEMIC policyholder, it led MEMIC to expand its successful logging safety initiative to protect brush cutters and others employed in Maine's forestry jobs. MEMIC's ten-year-old logging program nearly eliminated catastrophic injuries, paralysis, and deaths in the logging industry. MEMIC, which insured four of the nine firms that contracted workers in Maine's forests, aimed for similar results with the new initiative.

MEMIC's new safety program focused on driver safety for commuter vans as well as safety techniques in saw operation and first-aid training. Brush cutters use sharp saws to clear out overgrowth in the woods. Many of the workers travel from Central America to Maine and speak only Spanish. For that reason, the course was taught in Spanish. By July 2003 more than two hundred forest workers had participated in the training sessions. MEMIC policyholders whose forest workers were certified under the new program paid lower premiums for their workers' comp coverage.

Contractors attend a construction workshop put on by MEMIC's Safety Academy as part of its safety education program.

Andy Wood, the logging specialist who developed the program for MEMIC, said he hoped it would become an industry standard for employers hiring migrant workers for forestry jobs. In 2003 Wood received recognition as the Forest Resources Association's National Safety Man of the Year for his work in developing the program and in reducing injuries in the logging industry. As a certified trainer in the Certified Logging Professional program, Wood has trained hundreds of workers in safer strategies for cutting trees. "Andy Wood is absolutely dedicated to the safety of workers in the woods in Maine," said MEMIC president Leonard. "He has spent more than a decade in the field teaching workers that there is a better, safer way to fell trees."

Also in 2003 MEMIC explored ways to address problems in the medical arena. As a provider of benefits to injured workers, MEMIC found that the amount of money it paid for prescription painkilling drugs had nearly doubled in a few short years. Concerned that some of the medications might be diverted to the illegal street trade or be used to feed addictions, MEMIC adopted special guidelines for doctors prescribing the drugs and a series of checks to protect against fraudulent claims. Case-by-case monitoring ensured that opioids went only to the injured workers who needed them. The system had already shown results by the end of the year, MEMIC officials said. By keeping a watchful eye on prescriptions, the company reduced drug costs to 5 to 6 percent of total workers' comp medical expenditures, about half the national average of 10 percent at that time. Nationally, drug costs accounted for 19 percent of workers' compensation medical costs in 2011, according to a study conducted by NCCI.

Research and Collaboration

Always on the cutting edge of safety research, MEMIC took part in a 2003 study aimed at reducing injuries among hotel workers. Karl Siegfried, an ergonomist who became MEMIC's assistant vice president of loss control and safety services, and his team analyzed the tasks conducted by housekeepers at local hotels to determine the potential for injury. A technical piece of equipment known as a lumbar motion monitor revealed, for example, that the lifting required to change beds in just eighteen rooms subjected a housekeeper's back to more than 56,000 pounds of force. Siegfried said MEMIC participated in the study because it served "to advance the science of ergonomics by applying scientific principles and academic research to real-world solutions." The National Institute of Occupational Safety and Health and the Portland-based Erin Hotel Group partnered with MEMIC on the project. The study results helped lead MEMIC to develop new safety programs for housekeepers.

A housekeeper wears a lumbar motion monitor to measure the effort required in making a bed as part of an ergonomics study sponsored by MEMIC and the National Institute of Occupational Safety and Health.

In 2005 the company collaborated with the University of Southern Maine (USM) to provide on-the-job experience to students studying workplace health and safety. The internship program began at Bowdoin College in Brunswick and Barber Foods in Portland, where students used a lumbar monitoring device to measure the stress placed on workers' backs during routine tasks. The students then studied how modifications could ease back stress. The program trained two students a semester. "Any time a student has an opportunity to go into the real world and see firsthand and work with a mentor out in the field, that's a win-win for the students," said

William Moore, director of USM's Manufacturing Applications Center. "In the classroom, you can talk theory, you can show examples, you can show videos, but to get out there in the trenches, that's where it's at."

The partnership between MEMIC and USM also offered supervisors the opportunity to study leadership and communications skills directed at workplace safety. Those who participated could attain certification in the field. The six-month-long certification program gave supervisors the skills they needed to run a successful workplace safety campaign, said Dan Cote, at the time MEMIC's longtime executive in charge of loss control and safety. "If managers don't know how to lead people and communicate," he said, "the issue of safety is not going to get very far." MEMIC financed the cost of the internship and certification programs, estimated at $100,000.

MEMIC's safety consultants relied on new research to address workplace stress, ergonomics issues, and other threats to the health and safety of workers. MEMIC consultants advised their clients' shipping departments on ways to handle boxes to reduce back injuries. The MEMIC team also adjusted the height of bank tellers' stations to ease strain on employees and their customers and suggested that retail stores install thick rubber mats on floors to decrease stress and fatigue of staff members required to stand for much of their workday. Even sports teams benefited from advice from MEMIC experts, which included among other tips a recommendation to replace the players' common water bottle with individual bottles to cut down on flu and colds.

Whether MEMIC worked with employers in Maine or in other states, the emphasis on safety never changed. But the workplace and its challenges did. The types of safety issues and the strategies to deal with them altered as Maine's and America's workplaces shifted from mechanical, hands-on work to tasks dependent on computers and technology. While fewer workers faced hazards from machinery, injuries from misaligned computer screens or improper handling of files or medical supplies could be expensive to treat and resulted in time away from work. “Preventing needle sticks at health-care facilities can be just as important as taking steps against wood lot accidents,” said president Leonard. The same applied to injuries such as carpal tunnel syndrome and back pain. Leonard himself switched to an ergonomically designed chair after undergoing back surgery in 2003.

In May 2006 MEMIC again joined forces with USM to sponsor the first Northern New England Ergo Symposium. The daylong event, which attracted nearly two hundred participants, focused on the latest techniques and tools to prevent workplace injuries through the science of ergonomics. Dr. Thomas Waters, a research safety engineer who directed the ergonomics program at the National Institute for Occupational Safety and Health, was among the speakers who outlined advances in the field. The symposium, which was repeated in 2007 and 2008, signaled the growing partnership between MEMIC and USM in making Maine workplaces safer.

In 2011 MEMIC and the Maine Community College System formed the MEMIC Center for Workplace Safety. Based at Central Maine Community College in Auburn and designed to promote workplace safety throughout the state, the center began offering courses and certification programs in the fall of 2011.

Participants can take courses online, at the workplace, at Maine’s seven community college campuses, and at several off-campus sites. The MEMIC center offers training in a variety of topics, including ergonomics, construction, patient handling, leadership, and accident investigation, and provides courses necessary to meet national certification in health and safety fields. It also creates customized courses to meet the needs of individual employers and their employees. In addition, the OSHA Training Institute Education Center based in Keene, New Hampshire, teaches safety classes through the MEMIC center. MEMIC policyholders can attend safety workshops at the center free of charge and receive discounts on other class offerings.

"Fighting the Good Fight"

Many of the company's policyholders eagerly followed MEMIC's guidelines to create a safer workplace. Jason Marshall, whose construction company Marshall's Arts participated in MEMIC's contractor certification program, said he valued the lessons taught in the course. The Phippsburg, Maine, firm adopted recommended strategies such as using harnesses and lanyard systems to avoid falls. "It's our family up there," he said, "and so we're interested in keeping them as safe as possible."

In some cases, convincing employers to take on-the-job safety seriously posed one of MEMIC's toughest challenges. Some employers, particularly small businesses with a slim profit margin, were often reluctant to apply measures that added to their expenses. The legislation that created MEMIC required the mutual company to accept all Maine employers as customers for workers' comp insurance. (MEMIC Indemnity faced no such strictures out of state and accepted only customers it approved.) Even with the requirements, MEMIC can terminate a policy if an employer refuses to take steps to correct a poor safety record. When an employer refuses to adopt better safety practices, MEMIC applies pressure. "We try to use a carrot," Leonard said, "but we will use a stick if necessary."

Few companies appeal a termination based on unsafe practices, although they have a right to do so. MEMIC, which documents unsafe workplace behavior with testimony and photographs, has never lost a case involving an appeal of safety-related termination. "There have been instances," MEMIC's Leonard acknowledged, "where we had to drag someone over the goal line."

He said injury rates in the state declined only because everyone cooperated and followed safety precautions. Employers were rewarded not only by safer workplaces but also by discounts on premiums when they succeeded in reducing injury rates.

As a way of encouraging employers to improve safety and workers' comp services, MEMIC presents awards each year to policyholders who run extraordinary programs to reduce injuries and assist workers hurt on the job. MEMIC Indemnity followed the parent company's lead in emphasizing workplace safety among policyholders. In 2005 the MEMIC Group honored Monadnock Community Hospital in Peterborough, New Hampshire, for outstanding performance and management of its workers' comp program. The hospital, one of ten businesses to receive MEMIC awards that year, held numerous sessions to educate personnel on preventing workplace injuries, instituted a system to report injuries immediately, and analyzed injuries to prevent further occurrences. Training and specialized equipment helped employees work toward the hospital's goal of becoming a "no-lift" institution. "MCH has aggressively embraced many of our 'cutting edge' programs, which speaks volumes about their commitment to employee safety," said Lauren Caulfield, a MEMIC safety management specialist working with the hospital.

At MEMIC's 2005 annual meeting of policyholders at the Portland Museum of Art to honor recipients of the awards, president Leonard praised the winners for their efforts. "We are at war with workplace injury," he said. "These winners are fighting the good fight, representing the finest in workers' compensation in the Northeast."

Like MEMIC, the subsidiary worked best with clients who embraced workplace safety. "We're not going to be the insurer for everybody," said Michael Bourque, MEMIC's senior vice president of external affairs. "Our clients have to be committed to doing the things we ask of them. We'll work right alongside them and when they see the benefits, they're glad to have found us."

MEMIC turned to a sports franchise—the Portland Pirates hockey team—in 2006 to focus attention on the importance of safety. The team, already a MEMIC policyholder, broadcast the mutual company's safety message over the arena's public address system at the beginning of each home game. More than 200,000 fans heard the message during the season. In addition, players wore helmets and face shields sponsored by MEMIC and emblazoned with the MEMIC logo as a further reminder of the safety issue.

That year MEMIC also launched a media campaign called "A Better, Safer Place to Work" on Maine TV stations to demonstrate the benefits of its safety campaign. Three commercials informed viewers all across the state about MEMIC's efforts and how safety paid off for employers and employees. Workplace injuries, the ads noted, were both a personal and an economic tragedy for the entire state. President Leonard urged Mainers to follow safety rules, use the right equipment, and adopt an attitude of "cooperation and mutual trust." By making a personal commitment to "working smart," Leonard said, "we can cut the cost of workers' compensation and keep good jobs in Maine."

MEMIC's Safety Consultants

One factor in MEMIC's success in making job sites safer lay in the company's workforce. The company did not seek out safety consultants who were career insurance company staffers; instead MEMIC hired experts who had worked extensively in the industries they advised. "We essentially hire our safety people from the industries we serve," said MEMIC's Bourque. "The people who advise manufacturing companies have spent time on the shop floor."

The Portland Pirates helped MEMIC spread the word about the importance of safety equipment. Here, players Chris Brown, left, and Oliver Ekman-Larsson wear helmets provided by MEMIC.

TO MEMIC'S ROD STANLEY, SAFETY IS SERIOUS BUSINESS

As someone who has seen the results of construction accidents firsthand, Rod Stanley wants to prevent the devastating consequences of workplace injuries. Stanley, MEMIC's director of Region I in the loss control division, lost two friends to construction mishaps in 1978. One, a father of two young children and friend who shared lunches with Stanley, fell to his death when a steel building collapsed and he had nothing to stop his fall. "That left a lasting impression," Stanley said. He became a safety consultant "to maybe keep that from happening to other people in the future."

Stanley's experience as a construction worker, iron worker, safety consultant for Cianbro, and self-employed contractor gives him an edge when he talks with employers and employees about safety. "You have to lead by example," he said. "I don't ask people to do anything I wouldn't do." He himself wears steel-toed boots, safety glasses, a harness, and other safety equipment when he does home-repair projects. "There should be zero tolerance" for not following safe procedures, he said. Stanley's on-site safety inspections go beyond a cursory check. Safety equipment may be on the premises, but Stanley makes certain batteries are charged, guards are in working order, and other indicators signal that the equipment is actually being used. With his experience in the field, he knows when

people are just paying lip service to safety. "It's hard to hoodwink me," he said.

Companies can certainly save money by preventing workplace injuries, but safety issues go beyond that, Stanley said. "There's a business side to safety, and there's a moral side," he said. "MEMIC tends to be on the moral side." On-the-job safety is a fundamental mission of the company, from the president to the board of directors to every employee. MEMIC offers a wide range of educational programs on safety and recognizes employers who adopt safe practices. In a few cases, the company has cancelled policies of employers with egregious safety violations.

Ultimately, Stanley said, the attitude of the employer and the company's culture determine whether a workplace is safe or not. "You can talk safety and you can advertise and you can have courses, but employers and employees are the ones who have to do it." The key to a safe workplace, he said, is an employer who cares about the company's workers, has safety procedures in place, holds managers and employees accountable for adopting those procedures, and checks periodically to ensure safe practices are always followed. He cites the crew that constructed the Casco Bay Bridge in the mid-1990s as a good example of a safety-minded company. During Stanley's periodic inspections of the project, the firm's

supervisor or a manager accompanied him and corrected any safety issues "then and there." The company's employees understood that violating safety procedures would not be tolerated.

The consequences of safety lapses can be catastrophic, as in the case of a MEMIC-insured worker who used a body harness instead of the recommended scaffolding with a guard rail to keep from falling while he emptied ash from a boiler. The ash was too hot and ignited once it hit the air. In an attempt to escape, the worker jumped from the platform but was connected by his lanyard and hung below the outlet, where a stream of hot ash—like a river of lava—covered his body from head to toe. If he had used the properly equipped scaffolding, the guardrail would have allowed him to move to the side when the molten ash poured down. The worker survived, but he suffered burns to 90 percent of his body.

When companies get it right, however, the results are dramatic. MEMIC's push for safety and cooperation from employers and employees have helped decrease workplace injuries by more than one-third, and the resultant 30 to 40 percent reduction in workers' comp costs has improved Maine's economy and helped the state compete nationally for business. As the saying goes, "Workplace safety is good business—for everyone."

As MEMIC's senior vice president of loss control and safety, Dan Cote worked with many of these hands-on experts for years. The May 1, 2006, issue of the trade journal *Risk & Insurance* featured Cote on its cover under the headline "Keeping Danger at Bay." The cover story related MEMIC's success in transforming Maine's logging business from a high-risk endeavor into a "more moderate risk." Since 1994, the article noted, chain-saw forestry workers covered by MEMIC had not had a single death. The magazine attributed the improved safety record to MEMIC's "simple, ingenious safety plan" administered by Cote. Under the program, MEMIC's forestry experts trained workers for a week, then evaluated them doing on-the-job tasks. Those who passed earned certified logging professional (CLP) status, required of all loggers covered under MEMIC policies. Loggers must be recertified each year.

MEMIC's safety consultants also helped employers design safety plans tailor-made to their particular job site. In 2007, for example, Paul Bureau, a safety consultant in MEMIC's Glastonbury, Connecticut office, put together a specialized safety plan for Creed Monarch, a metal components manufacturer in New Britain. The manufacturer's new training manuals, which Bureau helped design, featured photographs of Creed employees on the job. The images not only captured the attention of the employees, but also cast them as partners in the company's safety campaign. "The bottom line is we both [MEMIC and Creed] want the presentation to have the greatest impact on the employees," Bureau said. "One of the ways to achieve this is to make the training as homegrown as possible."

MEMIC depends on employers to lead the effort in adopting safety measures in the workplace and to promote a culture of on-the-job safety. One way MEMIC helps employers with this task is by holding an annual conference for policyholders. Initiated in 1997, the free two-day Comp Summit focuses on workplace safety and other workers' comp issues.

Nationally known ethicist Rushworth Kidder, acclaimed mountain climber Alison Levine, business consultant and media executive James Shaffer, and former Maine governor Angus King headlined the tenth MEMIC Comp Summit held at Sunday River Resort in November 2006. About five hundred MEMIC policyholders attended and heard the experts' views on leadership and ways to inspire employees.

High-Tech Advances

With new scientific advances, MEMIC began relying more heavily on improved technology to process injured workers' claims, treat catastrophic injuries, and speed recovery and rehabilitation. The company sought out cutting-edge treatment for injured employees at the nation's most prestigious medical centers. Workers with brain and spinal cord injuries, for example, received specialized care at Spaulding Rehabilitation Hospital in Boston and Craig Hospital in Denver, among others. "We use the best facilities around the country," said president Leonard. Randy Miller was among those who benefited from MEMIC's commitment to seek the best treatment for injured employees. He was repairing a truck at work when a chain became wrapped around his thumb and tore it off his right hand. Surgery failed to reattach the thumb. An innovative medical technique, however, enabled a Boston surgeon to attach one of Miller's toes to his hand and repair tissue and tendons. With his new digit, Miller was able to return to work and perform the tasks he had done previously on the job.

To speed up the claims process, MEMIC embarked on a high-tech partnership with independent agents who sell MEMIC policies. In 2004 the company laid the groundwork to become the first workers' comp insurer in Maine to have direct access to agents' computer reports. The system allowed MEMIC to upload information directly from agents' computers, eliminating the need to reenter data in the home office. Claims received immediate attention, and the more efficient system reduced costs. "This is what we've needed for a long time," one agent said after using the new system. "MEMIC is solving a problem for us and our customers."

MEMIC implemented the system because of the importance of processing claims quickly. Workers who receive good treatment as soon as possible after an injury and who get encouragement and timely answers to their questions are far more likely to return to work promptly. Getting workers back on the job aids employees, eases work loads and cuts costs for employers, and benefits society at large. MEMIC's claims management team specializes in compassionate treatment of injured workers and demonstrates the company's determination to help employees return to work as soon as they are able. A claims handler processes each case quickly and efficiently, while a disability management nurse visits injured employees and helps them get the care they need. Other members of the team include vocational rehabilitation experts, advocates, and other specialists. MEMIC has set up its own medical advisory board, comprised of medical professionals who advise the company on technological advances and new procedures in medicine and innovative approaches to rehabilitation. In 2007 the MEMIC team helped hundreds of employees return to work after they suffered significant injuries.

Employers as well as employees appreciate MEMIC's personal involvement in injury cases. Richard Carey, human resources manager at Cabot Hosiery Mills Inc. in Northfield, Vermont, said MEMIC acted as a caring partner of his company. He said one of MEMIC's greatest contributions was its claims team's policy of keeping employers informed about injured workers' progress. As a result of the policy, Carey said, "The employee knows they are not just a check. We want him or her back here with us at work, so we stay in touch with the employee to see how he or she is feeling."

DAVID WYLLIE: BACK TO WORK IN RECORD TIME

David Wyllie knows what it's like to be at the mercy of an out-of-control machine. And he has traveled the hard road to get his life back on track after a life-threatening workplace accident. Wyllie's determination to return to his job as quickly as possible has amazed his coworkers and awed the MEMIC team who assisted him.

On April 8, 2010, Wyllie, a longtime metal shop foreman at Lyman-Morse Boatbuilding Company in Thomaston, Maine, had just fabricated an aluminum plate for a customer's boat when the plate roll machine on which he was standing unexpectedly switched on. "Nothing like that had ever happened before," he said.

Wyllie, who started working at the company in 1999, had stepped up on the machine to clamp the rolled plate. The sudden movement of the machine jerked Wyllie off balance and threw his left foot into the roller. Shipyard workers surmised that the overhead crane swung down and hit the switch, turning the machine on. Wyllie acknowledged that in his rush to get the job done, he failed to secure a lock on the machine to disable it, a standard safety procedure at the shipyard. The company has since installed automatic safety switches to prevent a repeat of the accident.

After crushing his foot, the machine began pulling Wyllie's leg into the rollers. With a strength born of desperation and with his leg still caught in the rollers, Wyllie managed to hurl the rest of his body away from the roller. He crashed onto the floor, four feet below, landing on his left elbow, which splintered on impact. His coworkers shut the machine off, pulled Wyllie's leg from the rollers, applied a tourniquet, and called 911.

Initially taken to Pen Bay Medical Center in Rockport, Wyllie was flown to Eastern Maine Medical Center in Bangor for immediate surgery. Doctors removed his left leg seven inches below the knee. Two days later they operated on the leg again and put a plate and replaced half the joint in his elbow. After twelve days in the hospital and a third operation on the leg, Wyllie went home. He spent the next weeks learning to balance, undergoing physical therapy, and getting around in a wheelchair.

On May 10, four and a half weeks after the accident, Wyllie returned to work. He resumed his job as a foreman at the fabrication shop. Lyman-Morse built ramps for Wyllie at his home and leading into the shop at the yard to make it easier for him to get around. "Basically I went back to my former job," he said. "The only thing I didn't do was get back on that machine again." More than one coworker used the word "amazing" to describe Wyllie. He

returned to work as soon as he could, Wyllie said, to take his mind off the phantom pain that plagued him weeks after his leg had been amputated. "I could occupy my mind at work," he said. "That was my therapy." Doctors fitted him with a prosthetic leg on June 22, 2010.

In the summer of 2012 Wyllie stepped down from his role as foreman and cut back on his work responsibilities in anticipation of his retirement that September, when he turned sixty-five.

His advice to other workers: "Don't go through it [a workplace injury]." But if someone is injured on the job, Wyllie said, he or she can rely on MEMIC. "The best part of my ordeal," he said, "has been dealing with MEMIC. They have been extremely good to me."

From the beginning, MEMIC supervised Wyllie's care. He has had many telephone conversations and e-mail exchanges with MEMIC case worker Amanda Callahan. "If I have any problems, I send her an e-mail and let her know." MEMIC arranged for Wyllie's wheelchair, then ordered a different model when the wheels of the first chair picked up metal from the fabrication shop and scarred his floors at home. MEMIC nurse Vicky Brooking initially oversaw his medical needs, a responsibility now filled by nurse Marsha Stevens.

Wyllie, who had been dealing with MEMIC personnel for weeks over the telephone but had never met any of them, was so touched by the personal attention he received that he made the trip to MEMIC's Portland headquarters to thank them face-to-face. He visited with Callahan and others on the MEMIC team. "I wanted to tell them how impressed I am with everything that MEMIC has done for me," he said. "And I wanted them to know that I greatly appreciate it."

For their part, the MEMIC staff has been inspired by Wyllie's incredible recovery and his determination to return to work. "He's pretty remarkable," said Michael Bourque, senior vice president of external affairs. Wyllie was able to resume his job thirty-two days after the accident because of his "resilient, positive attitude," Callahan said. "He is and continues to be an inspiration for us all."

MEMIC employees take time out for a stretch break.

“Walking the Talk”

MEMIC has taken its own lessons to heart, creating a safe workplace for its employees and treating them compassionately and fairly from the beginning. “We try to practice what we preach,” said MEMIC’s Michael Bourque. Each day at 10 A.M. and 2 P.M. employees, encouraged by a companywide loudspeaker, participate in a “stretch break.” The company has set up an employee wellness program, opened a gym at the Portland headquarters, provided confidential help with personal and work-related problems, and taken other steps to reduce employee stress. Professional development workshops and tuition reimbursement aid employees who want to advance within the company.

Many employees have been with the company since its early days. In 2006 MEMIC won top honors as one of the best places to work in Maine. Entering the competition for the first time, MEMIC placed fourth overall in the category for large companies. The contest, sponsored by the Society for Human Resource Management Maine State Council, based the rankings on an in-depth review of companies’ policies, procedures, and human resources operations and on the results of a comprehensive survey of employees. MEMIC placed fourth in 2007 and third in 2008’s contest. MEMIC, described in corporate literature as a “walk the talk” company, “truly believes that our employees are our most valued asset,” president Leonard said.

MEMIC headquarters at 261 Commercial Street, Portland, Maine. The company bought the building in 2011.

Chapter Ten

A Strong Future

THE DISASTROUS FAILURE of Lehman Brothers and the huge losses suffered by other U.S. financial institutions in 2008 spiraled into a years-long recession that affected the global economy. The period was marked by massive layoffs, foreclosures, personal bankruptcies, and business closings. Low rates of return on investments stunted growth in industry and undermined pension plans and private portfolios.

Like other segments of the economy, the insurance industry felt the ramifications of the financial crisis. Premiums for workers' compensation insurance, which were based on payroll, declined by 23 percent nationally between 2008 and 2009. Nevertheless, MEMIC continued to thrive. The company's conservative management style, customer loyalty, and good planning allowed the firm to cope with the economic uncertainty and maintain its "A" rating from A. M. Best.

The decline in workplace injuries, the speedy rehabilitation and return to work of injured employees, and the success of MEMIC Indemnity in attracting out-of-state workers' comp business led to happy news year after year for MEMIC policyholders, who enjoyed a stream of dividends. In 2005 the company distributed dividend checks totaling almost $4 million to its policyholders in Maine. Tom Broussard, the owner of Career

MEMIC'S $10 MILLION TOUR

In November 2009 MEMIC senior vice president Michael Bourque hit the road to deliver dividend checks to some of the lucky policyholders benefiting from MEMIC's careful fiscal management. In all, MEMIC sent checks totaling $10 million to more than 20,000 policyholders that year.

The tour made stops at Kittery Trading Post, Northeastern Log Homes, Gorham Sand and Gravel, Johnny's Selected Seeds (where Bourque turned over "seed money"), and the European Bakery (the recipient of "dough" from MEMIC). The visits were recorded for MEMIC's radio advertising campaign, broadcast over Maine airwaves beginning the week of November 16.

"Any other insurance companies delivering checks to you?" Bourque asked as he handed over the check to an eager employer.

"Only MEMIC," came the inevitable reply.

Prospects, an employment firm in Topsham covered by a MEMIC policy, expressed his thanks for the added benefit in a note to John Leonard. The "substantial amount" he received in dividends, he wrote, would be used for employee bonuses. Leonard said MEMIC's profits belonged to policyholders, whose efforts to reduce injuries and help employees return to work were a key factor in the company's success.

Maine policyholders again received hefty dividends from MEMIC totaling more than $12 million in 2006. The dividends represented a return on premiums paid in 2003. MEMIC board member David Labbe of Kittery Trading Post called the dividends "phenomenal." He said the retail store would receive between $6,000 and $8,000 as its share of the 2006 distribution. The mutual company paid even higher dividends in 2007, $14 million, and in 2008, a record $15 million. MEMIC's policyholders continued to collect dividends throughout the decade and beyond.

Leonard acknowledged the difficulties posed by the economy but said in the company's 2009 annual report that the firm had met the challenges of the past two years. "Today," he said, "we can honestly say that MEMIC has never been stronger." In 2009 MEMIC Indemnity joined its parent company in receiving an "A" rating from A. M. Best. The ratings firm praised both MEMIC companies for strong capitalization and operating results. The subsidiary, Best noted, helped the overall company to expand its business. Best cited MEMIC's "excellent reputation" for providing a high level of service and dividends to its policyholders. The MEMIC Group benefited from skill in underwriting, prudent investment policies, aggressive claims management, and a firm commitment to controlling losses and to teaching workplace safety, Best concluded.

In addition to its high rating from Best, MEMIC received plaudits from other organizations. MEMIC won ACORD's technology award in 2010 for instituting an efficient and seamless system that allowed agents to submit data, get quotes, and issue policies through their computers. Agents showed their appreciation of MEMIC's efforts by voting the company number one in customer service in a nationwide survey that year. MEMIC also won recognition as employer of the year in 2010. The accolade came from STRIVE, a Maine program for adults with developmental disabilities. Since 2004 the company had provided employment training and internships for students in STRIVE's post-secondary program.

Opportunities and Leadership

In 2008 MEMIC expanded its products to include employment practices liability insurance (EPLI), offered as an endorsement to its workers' comp policies. Approved by the Maine legislature in 2007, MEMIC's sale of EPLI—which covers lawsuits related to employment—added another level of protection for policyholders. The company marketed the additional insurance under the slogan "MEMIC Edge with EPLI." The insurance covered lawsuits for discrimination, wrongful firing, sexual harassment, and other employment-related issues. Employers purchasing MEMIC's EPLI received training in how to avoid lawsuits filed by disgruntled workers or applicants.

The company seized another opportunity in 2008 when it purchased the property at 245–253 Commercial Street, adjacent to the MEMIC building, the firm's home office in Portland. Built in 1900, the property formerly housed the offices of the law firm Drummond Woodsum. MEMIC's real estate subsidiary, Casco View Holdings, bought the brick building for $4 million, renovated it, and leased it to eleven commercial tenants, among them a pottery shop, a restaurant, and an investment advisory firm. In 2011 Casco View Holdings bought the MEMIC home office at 261 Commercial Street. The company may eventually incorporate both properties into a MEMIC campus to accommodate the firm's

MEMIC cemented its home in downtown Portland with the purchase of the Winslow Block buildings at 245–253 Commercial Street.

growing staff. "These purchases cemented our home in downtown Portland," said a MEMIC spokesman. "We have invested in the neighborhood and have room to grow."

MEMIC's president kept the company well informed of developments in the workers' compensation world as he assumed leadership roles in a number of industrywide organizations. In 2007 Leonard was elected to the board of directors for the National Council on Compensation Insurance and became chairman of the NCCI board in 2010. Leonard had previously demonstrated his leadership abilities during an earlier stint as an NCCI director from 1996 to 1997. Leonard also served as president of the American Association of State Compensation Insurance Funds (AASCIF)

Jane Sheehan, left, and Jolan Ippolito, right, have chaired MEMIC's board of directors a total of sixteen years between them.

from 1998 to 2000 and chaired its executive committee. AASCIF members comprise workers' comp insurers from twenty-six states and eight workers' comp boards in Canada. Earlier, Leonard served as a member of the National Workers' Compensation Reinsurance Pool Board. In 2008 he assumed the chairmanship of ACORD's board of directors, a post he originally held in 2001. Leonard helped lead the international organization to Asia, where its standards continue to gain prominence.

Jane Sheehan, current chair of the MEMIC board, credits part of the company's success to Leonard's participation in national and international industry boards. "John Leonard has been chair of every professional insurance board out there," she said. "He is on top of what's going on in the industry." She also gives high marks to MEMIC's senior management team for their expertise and the high quality of leadership they provide.

Unlike many in the industry, MEMIC has always had both men and women on its board and in management positions. From MEMIC's earliest days, women have filled leadership roles in the company. Two women—Jolan Ippolito and Jane Sheehan—have steered the company as chair of the board of directors for sixteen of MEMIC's twenty years. Half of the company's board members are women, and MEMIC's chief administrative officer is a woman. "One of the things the board always recognized is the role of women in the company's leadership," said Sheehan. She noted that the decisions the board makes and the company's role in the state's workers' compensation market affect both women and men in the workplace and in their roles as employers.

Catherine Lamson, MEMIC's chief administrative officer since 2008, said MEMIC has always promoted women in what is still a male-dominated industry. She credits much of the diversity in MEMIC's workforce to president John Leonard. "He is a really strong leader who believes in providing opportunities for all who want them and can do the job." That includes older and younger employees, students, people with disabilities, and "women are part of that mix," Lamson said. "MEMIC recognizes people for the contributions they can make."

Few Changes

Relatively few changes have been made to the 1992 workers' comp reforms through the years. In December 2011 the Workers' Compensation Board adopted a schedule of medical fees nearly two decades after the reforms had stipulated that the board draw up such a document. The schedule determined the amount to be paid hospitals and other health care facilities for medical treatment of injured workers. Under its terms, workers' comp cases will be billed the reduced fees paid by large insurers for similar nonwork-related cases. In addition, the state legislature passed a law earlier that year requiring that physicians charge no more than 105 percent of the average payment they received for procedures. Employers and insurers applauded the action.

MEMIC's Bourque said the schedule "took a long time to get here," but that it was "worth real money to employers." That proved true almost immediately when the Bureau of Insurance announced a 3.8 percent drop in workers' comp rates shortly after the fee schedule was approved. It was the second rate decrease announced that year, resulting in a total drop of 7 percent in 2012. The 3.8 percent rate decrease came as a recommendation from NCCI, which justified the drop based on the expected savings in medical bills as a result of the fee schedule.

"It [the fee schedule] will significantly reduce medical costs within the system," said Paul Sighinolfi, appointed as the Workers' Compensation Board's executive director in 2011. The schedule, he said, gave employees access to "good and competent" physicians and provided employers and insurers a much better standard to use when predicting future costs.

One significant revision to the reforms, passed by the Maine State Legislature in 2012, modifies benefits for some severely injured workers who have partial disabilities that are permanent. The Act to Review and Restructure the Workers' Compensation System, signed into law by Governor Paul LePage on April 18, 2012, changed the eligibility requirements for lifetime benefits. The new law bases lifetime benefits on the ability of an injured employee to work as well as on the severity of his or her injuries. It also sets a ten-year cap on benefits for employees with permanent partial workplace injuries.

Two Decades and Counting

The state as a whole has benefited dramatically from the success of MEMIC and the reforms in the workers' compensation system. The cost of workers' comp insurance in Maine has dropped by more than 40 percent since 1993. Workplace injuries have been reduced by more than 30 percent during that time. And nearly two hundred companies now offer workers' comp insurance in the state, where only one insurer wrote policies during the dark days of the crisis. Despite considerable competition for policies, MEMIC insures about 60 percent of Maine's employers and hundreds of companies in other states. The MEMIC Group as a whole insured 20,000 employers with 250,000 employees in 2012. Former Workers' Compensation Board executive director Paul Dionne said he doubted that the reforms would have succeeded if MEMIC had not been successful. "MEMIC was one of the key building blocks [in the reform package]," he said.

MEMIC's success story does not end here. The firm's executives know

Donna Clendenning, a MEMIC safety management consultant, conducts one of MEMIC's many webinars.

AN ETHICAL APPROACH TO BUSINESS

For twenty years ethics have played a central role in the operation of MEMIC. "The company always felt an ethical approach was critical," said Jane Sheehan, a MEMIC board member for the past decade and board chair since 2009. The company's leaders, Sheehan said, feel a responsibility to the state, which chartered the company, and its citizens, as well as to MEMIC's policyholders and the employees it insures.

To that end, MEMIC continues to invest heavily in safety programs, breaks records in processing claims as quickly as possible, and carefully reviews the character and ethics of all potential board members. MEMIC's leaders also view their stewardship of the company's assets seriously. "The leadership is very respectful in deciding how the money is spent," said Sheehan. "We believe dividends should be awarded [to policyholders] when there is a surplus."

Catherine Lamson, the company's chief administrative officer, said MEMIC's emphasis on ethics has allowed employees to "stand up and be proud every day. Ethics is an important part of the workplace culture. We all want to feel we are doing something meaningful."

She said the mission of MEMIC, its workforce, and its leaders is to ensure that "no one is being hurt or treated unfairly" on the job.

Catherine Lamson, MEMIC's chief administrative officer since 2008.

MEMIC's emphasis on ethics has paid off, said Sheehan. The company's investment in safety education and its push for safe workplaces in Maine have reduced claims and ensured MEMIC's long-term success, even in economic downturns.

In addition, MEMIC has taught its policyholders the ethics of safe working conditions for their employees. "Many of them have learned the ethical treatment of workers from MEMIC," said Sheehan.

the challenges that lie ahead: economic uncertainty, rising costs, political maneuvering—all can affect the state's workers' compensation system.

Skyrocketing medical costs, a problem throughout the nation, will continue to exert pressure on Maine's workers' compensation system, according to Leonard. But he says MEMIC's campaign to prevent injuries and reduce accidents will help offset those costs. He points to the company's extensive work in ergonomics and stress reduction, safety, and other programs aimed at keeping workers healthy. "MEMIC's claims team continues to develop new and creative ways to deal with workplace injury," Leonard said.

The dispute over who should pay for injured workers' attorney's fees will remain on the political docket. "Some people hoped the entire system would fail," said Jolan Ippolito, former MEMIC board chair who continues to serve as a director. "They didn't like the new rules, especially the change that eliminated paying for attorney's fees. That cut out a huge market for law firms."

Acknowledging that the legislature can always "tinker with the system," Ippolito insists that workers receive fair treatment under the present system. "There are employee advocates hired by the workers' comp board," she said. MEMIC, she noted, "has made sure that employers are holding hands with employees." Ippolito said that MEMIC remains a strong company that will never "lowball" costs. "It is very important for workers in Maine to have a source of workers' compensation insurance," Ippolito said.

MEMIC's success has proved a boon to Maine's business climate, said David Labbe of Kittery Trading Post, another longtime MEMIC director. By steering the state out of the workers' comp morass, MEMIC removed Maine from the negative radar screens of companies looking for relocation sites. "We were the state known for the worst workers' comp problems," said Labbe. "Now we are known for having one of the best workers' compensation insurance companies."

Charles Soltan, an attorney who represented Hanover Insurance Company during the workers' comp crisis, said insurers did not want to provide coverage for Maine's employers during that period because premiums could not cover the costs. "It was pretty brutal then," he said. The insurance companies were big supporters of the reforms, even if it meant that MEMIC would underwrite a majority of the policies. He compared the system then to now as "absolutely night and day."

For former governor John McKernan the success of the reforms has helped him put aside the unpleasantness during the shutdown. "A contractor told me his workers' comp premiums have gone from more than $1 million per year to under $300,000," the former governor said in 1995. "He thanked me for the shutdown."

During a televised interview with five Maine governors in 2012, McKernan said the success of workers' comp reform was his proudest achievement. MEMIC, he said, went a long way toward ensuring that success. The mutual company has "done fabulous things not only for businesses but for employees with the kind of emphasis they've forced on safety," he said.

The governors who followed McKernan made it clear they appreciated the changes made in the system in 1992. Angus King, who served as governor from 1995 to 2003, had high praise for the reforms and for McKernan's courage and tenacity in forcing the legislation through. "What [McKernan] did in setting workers' comp right is one of the most important things done in Maine in the last forty years," King said. "It's made a huge difference. Maine [had rates] literally two times higher [than the rest of the nation] in some cases. It was a huge drag on the economy."

John Baldacci, a Democrat who served two terms as governor after

King, agreed that the reforms had a beneficial impact on Maine's economy. The high price of workers' comp coverage during the 1980s and early 1990s, he said, affected employers even more than taxes or energy costs did. "It was driving businesses and jobs out [of state]. That was one piece of legislation that . . . made a significant difference" in Maine, Baldacci said.

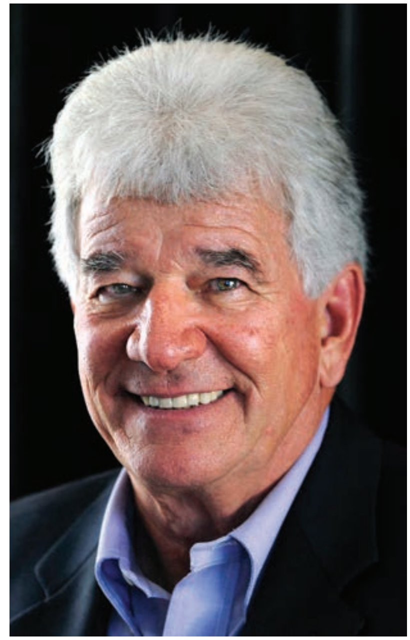
"If someone had said [in 1992] that we would have people coming from other states to learn about workers' comp, we would have thought he was crazy," King said. But that is just what has happened. Hawaii's lieutenant governor traveled to Maine to learn how MEMIC helped to resolve the workers' comp crisis. Hawaii later created its own mutual company, based on the Maine model. Officials in Missouri and West Virginia also used MEMIC as their guide when revamping workers' compensation in those states.

John S. Day, *Bangor Daily News* political writer, acknowledged the game-changing effect of the reforms several years after they went into effect. "No other legislative remedy," Day said in 1999, "has had such a positive impact on the state's economy."

MEMIC, as a key player in the reforms, filled an integral role in the dramatic turnaround of the state's workers' comp system. It continues to do so twenty years later. Far from being the workers' comp insurer of last resort only, MEMIC has become the first-choice insurer for a majority of the state's employers.

"MEMIC has been a huge success," said attorney Harold Pachios, who as NCCI counsel witnessed firsthand the disastrous condition of the system before the reforms. He credits John Leonard with taking MEMIC and "implementing it in a spectacular way. In many ways John Leonard took a seed and nurtured it into an extremely hardy oak tree."

Paul Dionne agrees. Leonard, he said, had a vision for MEMIC as an efficient and effective company that reduced workplace accidents and returned injured employees to work as soon as possible. "People had tried sporadically [to encourage workplace safety and promote employees' return to work]," Dionne said, "but MEMIC outdid everybody." The mutual company's success encouraged other insurers to run similar programs, he said. "Success breeds success."



Former Workers' Compensation Board executive director Paul Dionne.

Chief administrative officer Lamson said the company also faces the challenge of cultivating the MEMIC work ethic in other states as the company expands. "We have to be very selective" when hiring people to support the out-of-state operations, she said. "They have to really believe in the MEMIC mission, to walk the talk. Everyone—from underwriters to loss control people to claims handlers—have to have the same basic core culture to make the company succeed."

As for president Leonard, his vision for MEMIC in the next ten to twenty years is continued growth and what many in the industry might call a pipe dream. He sees a future where MEMIC's out-of-state ventures completely subsidize its Maine workers' comp business. For MEMIC's Maine clients, that would mean they would receive annual dividends that equaled the amount they spent each year in workers' comp premiums—truly no-cost insurance. And based on Leonard's track record, MEMIC might just pull it off.

Heading into its third decade, MEMIC continues to demonstrate the company's dedication to its clients. In March 2013 the Maine Bureau of Insurance approved a 3.9 percent increase in rates for the state's workers' compensation insurance to help cover the rising costs of health care. The increase amounted to the largest rate hike the bureau had allowed in six years or more. The ruling gave insurers offering workers' comp insurance

MEMIC Board of Directors, 2013, standing, from left: Katherine M. Greenleaf, David M. Labbe, President and CEO John T. Leonard, Chair M. Jane Sheehan, Robert D. Umphrey Jr., and S. Catherine Longley; seated, from left: Ward I. Graffam, Jolan F. Ippolito, and Lance A. Smith.

in Maine the option to raise rates by as much as 3.9 percent, potentially increasing premiums by as much as $10 million.

Two days after the insurance bureau's decision, MEMIC announced it would not raise rates for its 18,000 policyholders in Maine. "This is the right thing for us to do at this time," said MEMIC president Leonard. "While we clearly understand that there is justification to raise rates, based upon increasing medical costs, MEMIC will hold the line on this increase at this time. We know that many Maine businesses are continuing to struggle in this economy and we don't want workers' compensation costs to impede economic growth here in Maine."

Leonard said MEMIC chose not to increase rates for policyholders because it is an independent mutual company based in Maine which has become strong enough to operate without the added revenue. "We know it's unconventional for an insurance company to turn down a rate increase," he said, "but this is part of what makes MEMIC a special company."

Time Line for MEMIC and Workers' Compensation Insurance in Maine

1915	Maine enacts state's first workers' comp law.
1916	Workers' benefits capped at 500 weeks and $3,000; partial benefits capped at 300 weeks.
1945	Occupational Disease Law enacted to cover job-related medical conditions.
1965	Law passed requiring employers to pay for employees' lawyers' fees in good-faith workers' comp suits. Law also increased benefits and removed caps for permanent impairment.
1972	National Commission on State Workers' Compensation Laws report issued; critical of Maine's system.
	Maine expands benefits, adopts cost of living adjustment, removes caps, extends payments.
1974	Maine makes workers' comp coverage mandatory for almost all employers.
1981	Injured workers' benefits twice average weekly salary in Maine.
	Legislature introduces 53 workers' comp bills, pass some reforms.
1982	Legislature cuts maximum benefits; Maine plan still among top five most expensive in nation.
1985	Legislature passes reforms; employers pay employees' legal fees only when workers win court case; rate freeze and cap on future rate increases.
	Insurers challenge new law in court.
	U.S. Fidelity and Guaranty, Liberty Mutual refuse new workers' comp policies in Maine.

May 14, 1987	Maine Superior Court rules against insurers.
Spring–summer 1987	Dozens of insurers file to withdraw from Maine workers' comp market.
November 1987	Legislature passes workers' comp reforms that reduce maximum benefits, set up penalties for safety violations, establish assigned-risk pool system with "fresh start" surcharge, and allow "reasonable" rate increases.
April 1991	Governor's task force issues report calling for reforms.
Spring 1991	Legislature considers more than 60 bills on workers' comp; impasse.
July 1991	State government shuts down while legislators and governor develop acceptable workers' comp bill.
July 30, 1991	Governor signs revamped workers' comp bill.
January 1992	Five insurers withdraw from Maine's workers' comp market.
March 1992	Legislature creates Blue Ribbon Commission to Examine Alternatives to the Workers' Compensation System.
August 1992	Blue Ribbon Commission issues workers' comp plan.
October 6, 1992	Workers' compensation reforms passed.
October 7, 1992	Governor McKernan signs reforms into law.
November 13, 1992	MEMIC incorporated.
January 1, 1993	MEMIC opens its doors in Westbrook, and the first board of directors takes the helm.
February 14, 1993	John Leonard begins first day at work as MEMIC's CEO.
May 1993	First media campaign launched by MEMIC to encourage workplace safety.

June 21, 1993	First annual meeting held in Westbrook.
August 1993	MEMIC launches safety incentive program.
September 1, 1993	MEMIC moves to 261 Commercial St., Portland.
July 1, 1994	MEMIC announces first rate reductions.
June 23, 1995	Governor King signs bill addressing residual pool debt.
November 1, 1995	MEMIC discontinues capitalization surcharge.
Winter 1995–1996	MEMIC's first fraud cases prosecuted successfully.
June 1, 1997	Launch of www.memic.com.
November 1997	MEMIC holds first Comp Summit.
April 10, 1998	Legislature authorizes MEMIC to reduce directors from 13 to 9 and to form a subsidiary to provide workers' comp insurance in other states.
June 15, 1998	President Leonard announces first distribution of capitalization repayment to ratepayers.
October 1998	Residual pool lawsuit settled.
May 2000	New Hampshire approves license for MEMIC Indemnity Company.
June 1, 2000	A. M. Best gives MEMIC "A" rating for first time.
September 1, 2000	MEMIC Indemnity writes first New Hampshire policy.
2001	Residual pool surcharge discontinued.
June 25, 2001	MEMIC presents first Horizon Scholarship awards.
July 1, 2001	MEMIC refunds remaining capitalization fees.
February 6, 2002	Maine Supreme Judicial Court issues Kotch ruling in favor of workers claiming benefits for nonwork injuries that contribute to work disabilities.
April 26, 2002	Legislature passes bill overriding Kotch ruling.

August 2002	MEMIC named to Ward 50 for first time.
December 2002	MEMIC announces first dividends for policyholders.
January 1, 2003	MEMIC celebrates 10th anniversary.
2004	MEMIC adopts official code of ethics.
April 8, 2004	Statute changing composition of Workers' Compensation Board becomes effective.
2006	MEMIC Indemnity opens office in Glastonbury, CT.
May 2006	MEMIC and University of Southern Maine sponsor first Northern New England Ergo Symposium.
2007	MEMIC Indemnity opens office in Albany, NY.
2008	MEMIC offers employment practices liability insurance to clients.
	MEMIC purchases 245-253 Commercial St., Portland, property.
2009	MEMIC and MMG Insurance Co. offer insurance package to customers in New Hampshire and Pennsylvania.
2010	MEMIC wins ACORD's technology award.
	MEMIC named employer of the year by STRIVE.
2011	MEMIC purchases 261 Commercial St., Portland, property.
	MEMIC and Maine Community College System form MEMIC Center for Workplace Safety.
December 2011	Workers' Compensation Board adopts fee schedule for health care facilities.
	MEMIC purchases Granite Manufacturers Mutual Indemnity Company, renamed MEMIC Casualty Company.
2012	MEMIC Indemnity opens offices in New Jersey and Pennsylvania.

	MEMIC Indemnity applies for license in Alaska, offers coverage in 49 states and D.C.
April 2012	Legislature adopts bill that modifies benefits for workers with partial disabilities, sets ten-year cap on such benefits, and establishes new appeals board.
January 1, 2013	MEMIC celebrates 20th anniversary.

MEMIC's safety campaign has resulted in a dramatic decrease in the number of deaths and injuries at Maine workplaces over the past twenty years. Here, Rod Stanley, MEMIC's safety guru, makes use of a safety harness and other on-the-job safety equipment.

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