

Approved: February 15, 1999  
Date

MINUTES OF THE SENATE COMMERCE COMMITTEE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on February 12, 1999 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: Jerry Donaldson, Legislative Research Department  
Lynne Holt, Legislative Research Department  
Bob Nugent, Revisor of Statutes  
Betty Bomar, Committee Secretary

Conferees appearing before the committee:

Mikel Miller, Kansas, Inc.  
Steve Kelly, Director, Business Development Division, Kansas Department of Commerce and Housing  
Alan F. Alderson, Legislative Counsel, Western Retail Implement  
Robert J. Marcusse, Kansas City Area Development Council

Others attending: See attached list

**SB 179 - Eligibility for High Performance Incentive Program**

Mikel Miller, Research Analyst, Kansas, Inc., submitted testimony on behalf of Charles R. Ranson, President, Kansas, Inc., in support of **SB 179**, which would expand eligibility for participation in the High Performance Incentives Program (HPIP) to include warehousing, wholesale trade and distribution firms. In Kansas Inc.'s 1998 evaluation of HPIP, a confidential survey of certified firms found that 41% report HPIP had a significant impact on their decision to invest in new machinery and equipment or in a new facility. Likewise, 47% of existing Kansas firms that considered leaving the state to undertake their projects elsewhere, reported that HPIP incentives contributed significantly to their decision to remain and invest in Kansas. (Attachment 1)

Steve Kelly, Director, Business Development Division, Kansas Department of Commerce & Housing (KDOCH), testified in support of **SB 179**, stating the bill expands the Standard Industrial Classification (SIC) codes to include SIC categories 50- and 51-. These two categories cover wholesale/distribution operations for durable and non-durable goods. Wholesale/distribution is one of the six targeted industries Kansas is determined to have a competitive advantage, and on which the state is focusing its business recruitment efforts. The extension of HPIP eligibility to distribution businesses will have no fiscal impact on operations at KDOCH. Mr. Kelly referred to six charts whose graphics depict the history of HPIP certifications and its outcomes since FY 94, concluding that the program has been successful and has provided Kansas with a high skilled, well paid work force. (Attachment 2)

Mr. Kelly stated a critical component of the High Performance Incentive Program is the determination that a worksite is in one of the statutorily-defined SIC categories which is eligible for HPIP. The federally-designed SIC system originally was developed for purposes and objectives not necessarily shared by HPIP, and there are instances when Federal Bureau of Labor Statistics requirements force Kansas Department of Human Resources (KDHR) to assign a worksite SIC code which is not descriptive of the business activities that occur at the Kansas worksite. The KDOCH and KDHR have worked out a system where KDHR examines the activities at a worksite, without regard to that worksite's affiliation with other worksites and businesses. This allows worksites to compare their internal average wage to the HPIP wage standard developed for other Kansas worksites at which similar business activities occur. The Kansas Department of Revenue (KDR) was involved in the process through which the system was developed, and feels additional statutory language would be helpful in its implementation. (Attachment 3)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMERCE COMMITTEE, Room 123-S of the Statehouse, at 8:00 a.m. on February 12, 1999.

Alan Alderson, Legislative Counsel, Western Retail Implement and Hardware Association, testified in support of **SB 179**, stating the legislation allows wholesale and distribution operations to qualify for HPIP benefits. Such businesses play a vital role in the Kansas economy. (Attachment 4)

Robert Marcusse, Kansas City Area Development Counsel, testified in support of **SB 179**, stating passage of this legislation would provide businesses on both sides of the Kansas and Missouri state line an even opportunity in the recruitment of new businesses. (Attachment 5)

**Senator Ranson moved, seconded by Senator Donovan, that SB 179 be amended on Page 1, Line 21, following the word "code." by inserting the following language: "A business establishment may be assigned a standard industrial classification code according to the primary business activity at a single physical location in Kansas."; and on Line 22 by striking "49" and inserting the number "51"; The voice vote was in favor of adopting the amendments.**

**Senator Ranson moved, seconded by Senator Brownlee, that SB 179 be recommended favorable for passage as amended. The recorded vote was unanimous in favor of the motion.**

**SB 219 - Workers Compensation Administrative Changes**

Bob Nugent, Revisor of Statutes, reviewed distributed a balloon version of **SB 219**, and reviewed amendments previously adopted.

**Senator Donovan moved, seconded by Senator Brownlee, that the amendatory language in 44-5,122 be further amended to read as follows: "Any case which a county attorney fails to prosecute within ninety days shall be returned promptly to the director." The voice vote was in unanimously in favor of the motion.**

**Senator Brownlee moved, seconded by Senator Feleciano, that SB 219 be recommended favorable for passage as amended. The recorded vote was unanimous in favor of the motion.**

**Upon motion by Senator Ranson, seconded by Senator Gooch, the Minutes of the February 11, 1999 Meeting were unanimously approved.**

The meeting adjourned at 8:50 a.m.

The next meeting is scheduled for February 15, 1999.

# SENATE COMMERCE COMMITTEE GUEST LIST

DATE: February 12, 1999

NAME	REPRESENTING
DICK CARTON	KSIA
Bob Marcusse	KCADC
Terry Leatherman	KCCI
Roger Frazzle	KGC
Bill Laves	KS, Dept. Human Resources
Russ VAWTER	KS DEPT HUMAN RESOURCES
Wayne Maubry	KS AFL-CIO
Rob Hodges	KTIA
David Bybee	KDOCH
Mike Miller	KS Inc.
ALAN ANDERSON	WESTERN ASSOCIATION
Chris McKenzie	League of Ks. Municipalities
Stephen Duvall	KIDHR
Abner J.	DGA
Jolene Scabell	KTLA
TUCK DUNCAN	
Hal Hudson	NFIB/Kansas
Phil Harrison	KDHR - Div. of Work Comp.
David Shufelt	" " " " "





February 12, 1999

Dear Senate Commerce Committee Members:

Kansas, Inc. is pleased to **encourage your favorable consideration of S.B. 179**, a bill to expand eligibility for participation in the High Performance Incentives Program (HPIP) to include warehousing, wholesale trade and distribution firms.

It is clear that HPIP has been successful in spurring new investment and job creation. By our analysis, a total of \$645.3 million in investment was reported in connection with HPIP certified firms between FY 1994 and FY 1997. Additionally, more than 3,400 new jobs were created during this same time period in connection with the program.

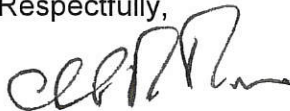
HPIP has been cost effective as well. Though 64 HPIP-certified firms have earned an estimated \$66 million in state income tax credits in the 1994 - 1997 time frame, just over \$1 million in state income tax credits have been claimed by these firms as of September 1997.

In Kansas, Inc.'s 1998 evaluation of HPIP, our confidential survey of certified firms found that 41% report HPIP to have had a significant impact on their decision to invest in new machinery and equipment or in a new facility. Likewise, 47% of existing Kansas firms that had seriously considered leaving the state to undertake their projects elsewhere reported that HPIP incentives contributed significantly to their decision ultimately to remain and invest in Kansas.

Kansas has a competitive advantage in infrastructure and geographic location upon which to expand economic strength by expanding this very successful program to include warehousing, wholesale trade and distribution firms. I am pleased, therefore, in behalf of Kansas, Inc., to **encourage your support of S.B. 179**.

Thank you for your consideration.

Respectfully,



Charles R. Ranson  
President

**Board of Directors**

Governor Bill Graves, *Co-Chair*

John Pr

Senate Commerce Committee

Stan Ahlerich • Peter Brungardt • Kathleen Clark • Janet Gardner • Anthony Hensley • Al  
Tony Redwood • Carl A. Ricketts • Alicia Salisbury • Deryl Schuster • (

Date: 2-12-99

Attachment # /

**TESTIMONY TO:**

**SENATE COMMERCE COMMITTEE**

**BY: STEVE KELLY**

**BUSINESS DEVELOPMENT DIVISION**

**KANSAS DEPARTMENT OF COMMERCE & HOUSING**

**February 12, 1999**

**8:00 A.M.**

**Room 527-S**

Senate Commerce Committee

Date: *2-12-99*

Attachment # *2-1 thru 2-14*

## Testimony for the Senate Commerce Committee

Madam Chair, Members of the Committee, my name is Steve Kelly. I am the Director of the Business Development Division at the Kansas Department of Commerce & Housing (KDOC&H).

Senate Bill 179 asks that the Standard Industrial Classification (SIC) codes which are eligible for the High Performance Incentive Program (HPIP) be expanded to include SIC categories 50-- and 51--. These two categories cover wholesale/distribution operations for durable and non-durable goods.

Wholesaling/distribution is one of the six targeted industries in which the state has determined it has a competitive advantage, and on which the state is focusing its business recruitment efforts.

The Kansas Department of Commerce & Housing (KDOC&H) believes Senate Bill 179 will help the state encourage growth in this industry, by allowing Kansas to make tax incentives available to recruit new distribution firms to the state, to retain existing distribution businesses which might otherwise choose to move operations outside the state, or might choose to expand company operations at facilities outside the state.

The extension of HPIP eligibility to distribution businesses will have no fiscal impact on operations at the KDOC&H. We do anticipate potential for additional tax credits that will be claimed due to new investment by recruited and existing distribution businesses, which are currently not eligible for the program. Please note that some distribution worksites are already able to qualify for HPIP as ancillary support operations of other, non-distribution

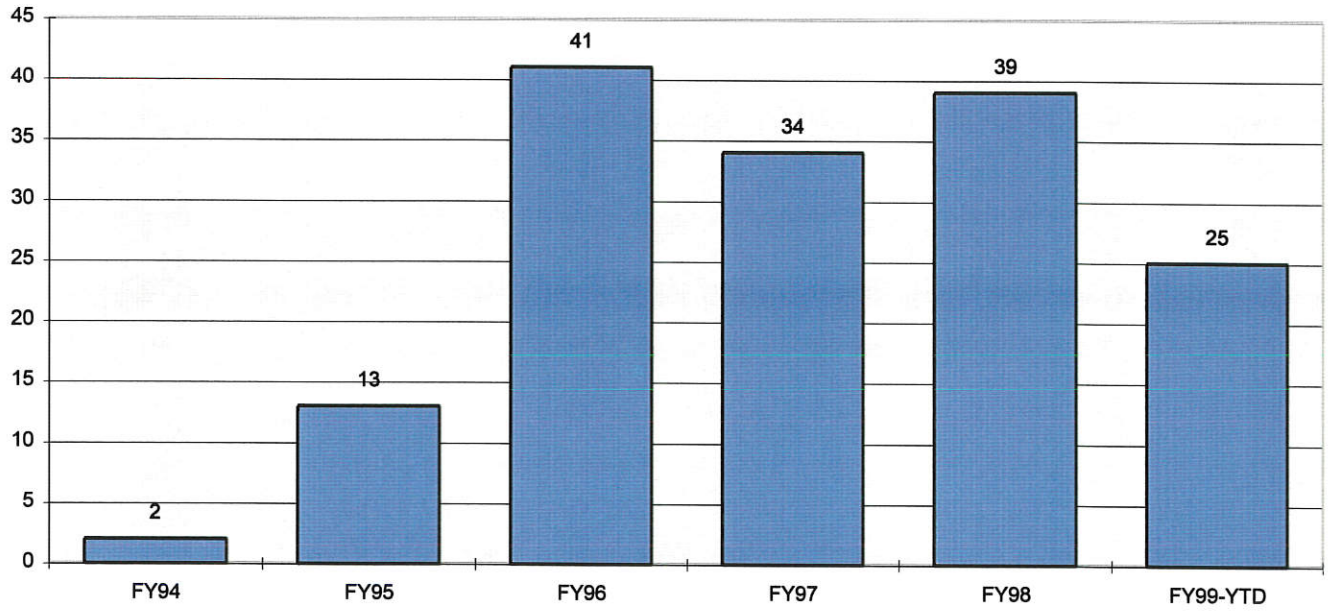
businesses. Senate Bill 179 would level the field for businesses whose sole activity is wholesale/distribution.

For your review, I have attached several indicators of HPIP activity and impact.

Thank you for allowing me to present this proposed revision to the High Performance Incentive Program.

12/31/98

Total HPIP Certifications

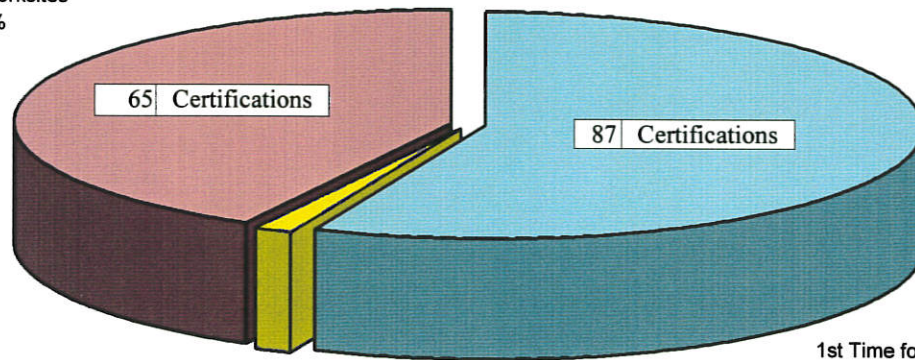


Based on When the HPIP Paperwork was Processed

12/31/98

HPIP Certification Types

Re-Certs at Primary & Second Worksites  
42%



1st Time for a Company  
57%

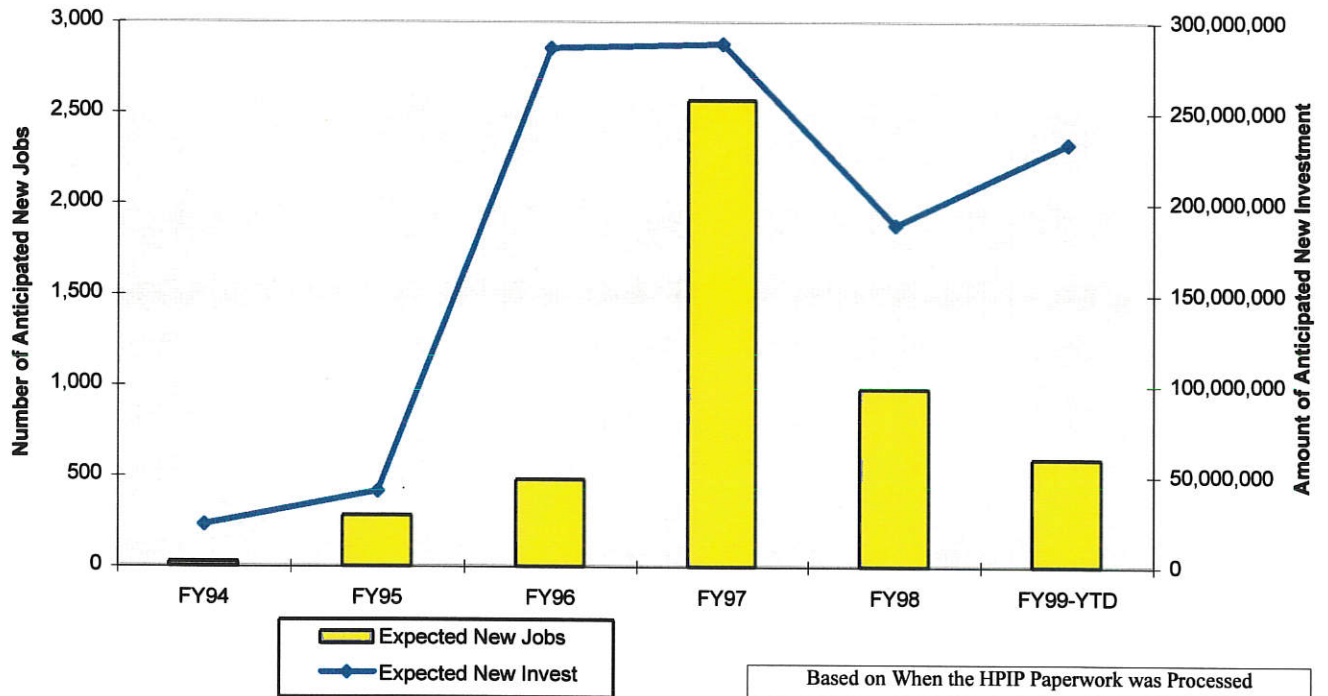
2 Certifications

Based on When the HPIP Paperwork was Processed



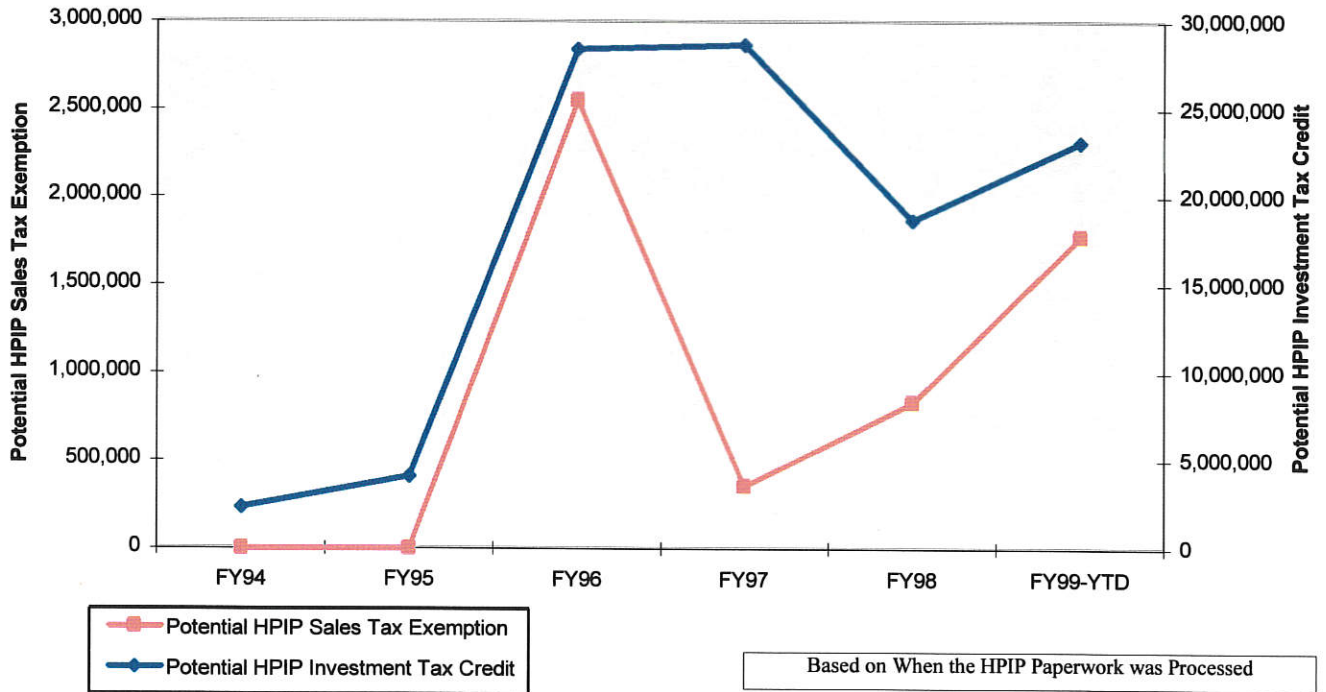
12/31/98

**Anticipated New Jobs & Investment**



12/31/98

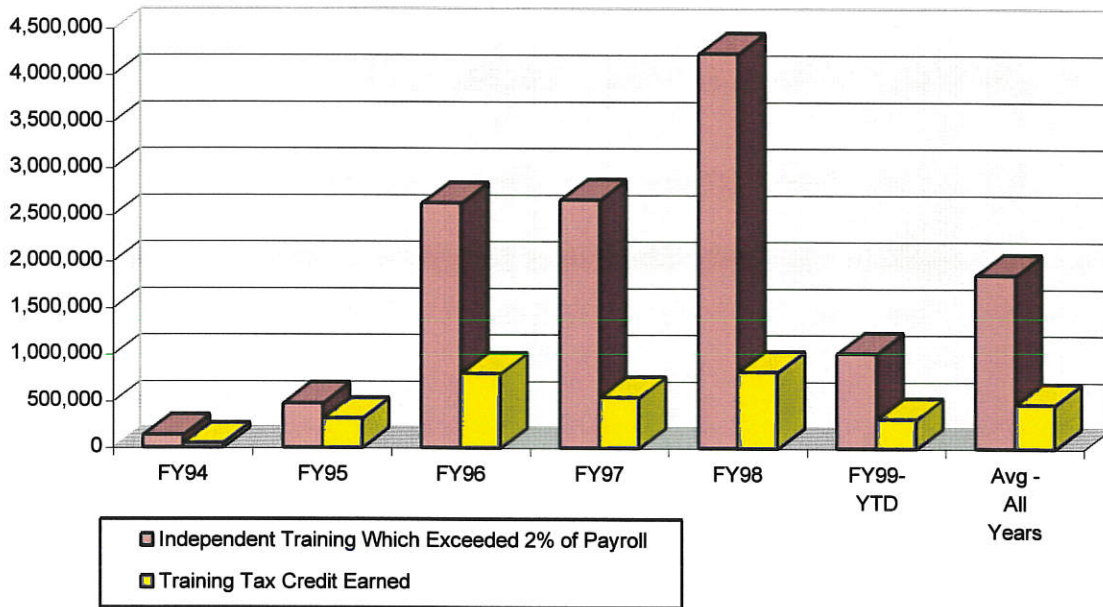
**Anticipated HPIP ITC & STE**





### Independent Training Expenditures Over the Minimum Compared to Tax Credits Earned

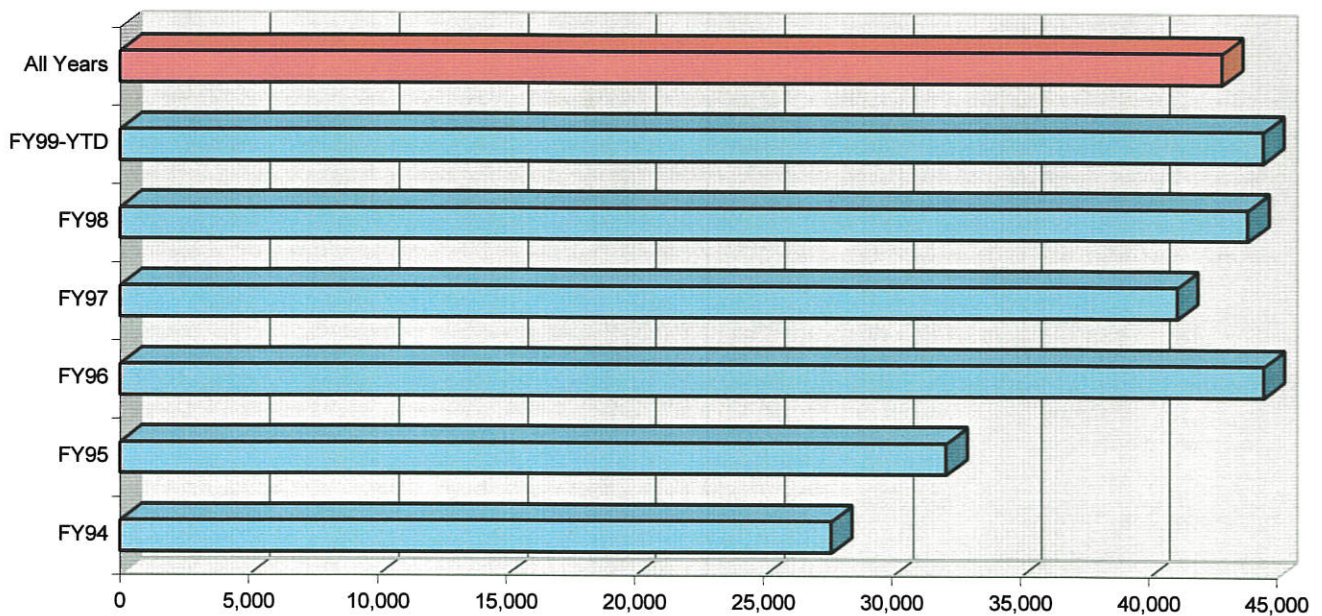
12/31/98



Based on When the HPIP Paperwork was Processed

### Average Wage by Fiscal Year

12/31/98



Based on When the HPIP Paperwork was Processed

EXECUTIVE SUMMARY TARGET INDUSTRY PROFILE:

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# WHOLESALE, PACKAGING AND DISTRIBUTION

**KANSAS**

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**BUILT ON CHARACTER**

Department of Commerce & Housing

# WHOLESALE, PACKAGING AND DISTRIBUTION

This Executive Summary of the Product Wholesale, Packaging and Distribution Sector Profile provides industry-related information for the State of Kansas. The information included in this summary was excerpted from a target industry profile developed by the Wadley-Donovan Group, LTD (WDG). WDG is a management consulting firm that specializes in location consulting. Economic development agencies frequently ask WDG to assist them with strategic planning, market research and database development. Clients have included states, counties and major metropolitan areas. This summary includes definition of the target industry and related business sectors; economic and demographic information that is essential to the target sector; and analysis of important locational factors.

## BACKGROUND

This sector consists of facilities that engage in wholesale product distribution and related activities. A major sector of this target includes establishments that provide value-added assembly, preparation or repackaging of imported or domestic products for sale to industrial, commercial, institutional, agricultural or professional business users. The analysis that follows includes information on Kansas, the six-state greater Kansas region (Kansas, Oklahoma, Colorado, Missouri, Nebraska and Iowa) and the United States economy.

Between 1989 and 1994, local and national industry trends varied. Kansas (17.8%), and to a lesser extent the six-state greater Kansas region (12.2%), added Wholesale, Packaging and Distribution jobs at a much faster rate than did the nation as a whole (4.4%). Average establishment size also grew slightly within Kansas (3.2%), despite a national decline of over 8%.

The geographic distribution of the industry was in transition between 1989 and 1994 (the latest years in which comprehensive data is available). Employment growth was steady in most areas of the country except for the New England and Middle Atlantic regions. Employment growth within the six-state greater Kansas region and within Kansas itself was impressive during these years. Kansas ranked in the top ten of all states in target industry employment growth during this period.

## MAJOR EMPLOYERS

The following tables present a sampling of major (100 or more employees) non-durable and durable distributors in Kansas.

<b>Representative Major Non-Durable Distributors in Kansas</b>			
<i>Source: American Business Information</i>			
<b>Company</b>	<b>SIC Code</b>	<b>City</b>	<b>Employment</b>
JC Penney Inc.	4225	Lenexa	1200
KMART Distribution Center	4225	Lawrence	450
Walmart Distribution Center	5311	Ottawa	1,000
Saunders Manufacturing Co.	5131	Atchison	140
Key Industries Inc.	5136	Fort Scott	100
Foot Locker Distribution Center	5139	Junction City	350
Affiliated Foods Inc.	5141	Elwood	297
Doskocil Food Service Co.	5141	Hutchinson	300
Fleming Co.	5141	Kansas City	466
Fleming General Mdse. Distr.	5141	Topeka	120
La Siesta Foods Inc.	5141	Topeka	200
Rainbo Bakery Stores	5141	Wichita	220
Reser's Fine Foods Inc.	5141	Topeka	275
Sam's Club	5141	Wichita	150
Valu Merchandisers Co.	5141	Fort Scott	150
Monsour's Inc.	5142	Pittsburg	100
Century Manufacturing Inc.	5162	Lincoln	125
Constar International Inc.	5162	Kansas City	200
Continental Plastic Containers	5162	Shawnee Mission	200
Plastics Technology Group	5162	Shawnee Mission	220
North Supply Company (Sprint)	5163	Gardner	800

MAJOR EMPLOYERS (continued)

<b>Representative Major Durable Distributors in Kansas</b>			
<i>Source: American Business Information</i>			
<b>Company</b>	<b>SIC Code</b>	<b>City</b>	<b>Employment</b>
Collins Bus Corp.	5012	Hutchinson	100
El Dorado National Inc.	5012	Salina	200
Consolidated Manufacturing Inc.	5013	Hutchinson	325
LMC Truck	5013	Shawnee Mission	157
Reliable Automotive	5013	Shawnee Mission	130
Western Auto Supply Company	5013	Salina	185
Vita Craft Corp.	5021	Shawnee Mission	133
G T Sales & Mfg Inc.	5023	Wichita	100
Arrowhead West Endowment Assn.	5031	Dodge City	200
Consolidated Lumber Co.	5031	Shawnee Mission	105
Allegiance Healthcare	5047	Shawnee Mission	175
Scott Specialties Inc.	5047	Belleville	130
Shawnee Mission Home Care	5047	Shawnee Mission	100
Essex Wire	5051	Pauline	250
PSI Investigative Service	5063	Topeka	423
Solomon Corp.	5063	Solomon	250
Strasser True Value Hardware	5063	Kansas City	100
Cross Manufacturing Co.	5085	Lewis	125
Gates Rubber Co.	5085	Iola	350
Allied Signal Aerospace Co.	5088	Lawrence	600
Keystone Railway Equipment Co.	5088	Mc Pherson	105



**ANALYSIS OF PRINCIPAL  
LOCATIONAL CRITERIA**

Kansas has several attributes that meet critical locational criteria for the Product Wholesale, Packaging and Distribution sector.

1. An overnight and 2nd day service territory with a significantly large market. Kansas' central location allows for access to most of the nation's important consumer and industrial markets. Major consumer and industrial markets in the populous Great Lakes, Northeast, Southeast and Gulf Coast regions can be reached within 24 hours. The table highlights the mileage and travel time to key markets from central Kansas.

2. Close proximity to interstate or other limited-access, primary-grade roads. Kansas maintains a supporting infrastructure for target industry activity. WDG interviews show that Kansas employers rate several key infrastructure categories very favorably. Two of the most critical infrastructure elements to target industry employers, trucking services and trucking costs, are rated well above satisfactory. Quality of air freight service also ranks above satisfactory.

3. Direct interstate service east/west and north/south. The interstate highways in Kansas provide both east/west and north/south access. I-70 runs east/west along the entire length of the state. I-35 is Kansas' major north/south artery and links south central Kansas with the central and eastern portions of the state. I-135, I-335 and I-435 provide service in the eastern half of the state. The state also has many U.S. and state highways.

4. Excellent, low-cost motor carrier service. Eastern Kansas is situated to take advantage of the Kansas City metropolitan area's well-developed distribution base. The combination of central location and superb road, rail, air and barge shipping capability in the Kansas City metropolitan

<b>Highway Travel from Central Kansas</b>		
<i>Source: Microsoft Automap</i>		
<b>Destination City</b>	<b>Highway Miles</b>	<b>Driving Time</b>
Atlanta, GA	980	15 hours, 27 min.
Baltimore, MD	1,220	19 hours, 43 min.
Boston, MA	1,599	25 hours, 25 min.
Chicago, IL	711	11 hours, 18 min.
Cincinnati, OH	769	12 hours, 21 min.
Dallas/Fort Worth, TX	458	7 hours, 16 min.
Denver, CO	435	6 hours, 45 min.
Houston, TX	698	11 hours, 13 min.
Kansas City, MO	180	2 hours, 52 min.
Los Angeles, CA	1,442	22 hours, 57 min.
Memphis, TN	685	11 hours, 12 min.
Miami, FL	1,666	26 hours, 46 min.
Minneapolis/St. Paul, MN	617	9 hours, 42 min.
Montreal, PQ (Canada)	1,572	24 hours, 51 min.
New Orleans, LA	971	15 hours, 36 min.
New York, NY	1,381	24 hours, 2 min.
Omaha, NE	253	4 hours, 15 min.
Phoenix, AZ	1,087	19 hours, 29 min.
Salt Lake City, UT	964	13 hours, 14 min.
San Francisco, CA	1,694	27 hours, 4 min.
Seattle, WA	1,755	27 hours, 40 min.
St. Louis, MO	427	6 hours, 44 min.
Toronto, ON (Canada)	1,222	19 hours, 19 min.
Washington, DC	1,216	19 hours, 34 min.

*Handwritten notes:*  
 4. An overnight  
 service territory  
 with a significant  
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 allows for access  
 to most of the  
 nation's important  
 consumer and  
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 Great Lakes,  
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 Gulf Coast  
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 24 hours.  
 The table  
 highlights the  
 mileage and  
 travel time to  
 key markets  
 from central  
 Kansas.



area has made the area into one of the nation's premier distribution centers. Eastern Kansas is well-positioned to capture increased distribution traffic generated by the North American Free Trade Agreement (NAFTA) treaty. Kansas is centrally located between Canada and Mexico, and I-35 (which passes through eastern Kansas) is a natural trade route between these markets. Kansas is an ideal location for firms which demand shortened delivery times to all areas of North America.

5. Eastern Kansas has good access to air cargo facilities. Both Kansas City International and Wichita Mid-Continent airports are major air cargo handling centers. Access to reliable air cargo handling facilities is critically important to distributors of time-sensitive or high value-to-weight ratio products.

6. Kansas labor legislation is favorable to business. Among the most attractive features of Kansas' labor laws are:

- Kansas is a right-to-work state.
- State plant closing laws are no stricter than Federal standards.
- There are no restrictions on employee drug testing.
- Kansas workers compensation and unemployment claims procedures are fair.

7. A labor force with good basic and technical skills. Kansas provides a labor force oriented towards the skills demanded by target industry employers. As noted in the table, employers rate the availability of workers for most occupations important to the target industry as satisfactory or better.

<b>Labor Availability for Principal Target Industry Occupations</b>	
<i>Source: WDG Employer Surveys</i>	
<b>Occupation</b>	<b>Availability Rating (5 = Plentiful, 1 = Unavailable)</b>
Clerical workers, entry level	3.6
Management trainees	3.3
Customer service representatives	3.3
Unskilled workers (manufacturing)	3.1
Material handling laborers	3.1
Clerical workers with advanced computer skills	2.9

8. The computer skills of the Kansas workforce are generally rated favorably by Kansas employers. As target industry employers steadily adopt sophisticated automated storage and retrieval systems, access to a computer literate labor pool will become an increasingly critical locational factor. The following table shows the ratio of needed occupations in the Kansas workforce. The Kansas ratios are generally close to the national averages.

9. State tax laws are advantageous to the Wholesale, Packaging and Distribution industry. Inventories (raw materials, works in progress and finished goods) are not taxed in Kansas.

10. Unemployment insurance costs in Kansas are extremely low. Kansas ranks 8th among the 50 states in terms of average employer unemployment compensation contributions (base times rate). Unemployment insurance costs are among the lowest in the six-state greater Kansas region.

11. Workers compensation insurance costs in Kansas are competitive within the region and moderate compared to the rest of the U.S. Among the six states in the region, Kansas ranks 3rd in average employer workers compensation costs.

Average workers compensation insurance costs in Kansas are lower than the national average.

<b>Presence In Kansas of Principal Occupations Needed by Target Industry</b>		
<i>Source: Bureau of the Census</i>		
<b>Occupation</b>	<b>Kansas</b>	<b>U.S.</b>
Assemblers	1.3466%	1.2748%
Billing clerks	0.1240%	0.1364%
Bookkeepers, accounting and auditing clerks	1.8051%	1.5566%
Bus, truck and stationary engine mechanics	0.2241%	0.2155%
Freight, stock and material handlers, n.e.c.	0.4783%	0.4640%
Graders and sorters, except agricultural	0.0787%	0.1119%
Hand packers and packagers	0.2984%	0.2983%
Inspectors and compliance officers, except construction	0.1301%	0.1306%
Inspectors, agricultural products	0.0030%	0.0035%
Inspectors, testers and graders	0.1480%	0.1068%
Motor transportation occupations, n.e.c.	0.0021%	0.0031%
Packaging and filling machine operators	0.2320%	0.2278%
Purchasing agents and buyers, farm products	0.0338%	0.0140%
Purchasing agents and buyers, n.e.c.	0.1869%	0.2000%
Purchasing managers	0.1208%	0.0978%
Sales representatives, mining, manufacturing and wholesale	1.2522%	1.2374%
Stock and inventory clerks	0.6558%	0.5765%
Stock handlers and baggers	0.8116%	0.8345%
Supervisors, distribution, scheduling and adjusting clerks	0.1487%	0.1582%
Supervisors, handlers, equipment cleaners and laborers, n.e.c	0.0111%	0.0127%
Supervisors, motor vehicle operators	0.0530%	0.0651%
Truck drivers	2.1713%	2.3559%

12. Low to moderate wages that are less than the national average. Kansas' labor costs are competitive. The table shows average hourly earnings for important occupations in the target industry. Wherever possible, these statewide wage rates are benchmarked against comparable national data. Overall, for these positions, Kansas wage rates compare favorably to national averages.

<b>Comparative Average Hourly Earnings for Major Target Industry Occupations, 1997</b>		
<i>Source: Kansas Department of Human Resources; U.S. Department of Labor</i>		
<b>Occupation</b>	<b>Kansas</b>	<b>U.S.</b>
Warehouse supervisor	\$16.20	N/A
Truck driver (heavy or tractor trailer)	\$11.53	\$13.52
Truck driver (light)	\$8.66	\$10.26
Forklift operator	\$11.43	\$12.24
Stock clerk	\$10.07	\$12.21
Shipping, receiving or traffic clerk	\$8.79	\$11.05
Freight, stock or material mover	\$9.12	\$9.62
Hand packer & packager	\$7.71	N/A

**ADDENDUM TO SENATE BILL 179 TESTIMONY**

**FEBRUARY 12, 1999**

A critical component of the High Performance Program is the determination that a worksite is in one of the statutorily-defined SIC categories which is eligible for HPIP.

KDOC&H, in general, uses the SIC code which has been assigned to a worksite by the Kansas Department of Human Resources (KDHR) in the course of its work with our state unemployment insurance and the Federal Bureau of Labor Statistics (BLS). This allows us to use an objective, outside party, which has specialized training in the assignment of such codes.

Because the federally-designed SIC system was originally developed for purposes and objectives not necessarily shared by HPIP, there are instances when BLS requirements force KDHR to assign a worksite SIC code which is not descriptive of the business activities that occur at that Kansas worksite.

For example, a Sears back-office operation, such as credit card processing or distribution/warehousing, or even a manufacturing facility producing products for Sears, would likely be classified under the umbrella retail code that describes Sears' overall operation.

In such instances, to determine HPIP wage eligibility, the worksite is forced to compare its internal wage to a wage standard developed for an SIC category not representative of the activities that take place at that Kansas worksite.

For these instances, KDOC&H and KDHR have worked out a system whereby KDHR examines the activities at a worksite, without regard to that worksite's affiliation with other worksites and businesses. KDHR determines a non-binding, informal SIC designation that is representative of the worksite-specific activities. This allows such worksites to compare their

Senate Commerce Committee

Date: 2-12-99

Attachment # 3-1 thru 3-3

internal average wage to the HPIP wage standard developed for other Kansas worksites at which similar business activities occur. KDOC&H believes this helps meet the original legislative intent behind using SIC codes as a proxy for describing the kinds of business activities that were to be HPIP-eligible.

The Kansas Department of Revenue (KDR) was involved in the process through which this system was developed, and feels that additional statutory language would be helpful in its implementation. KDOC&H is of the opinion that the current statutes already offer authority for implementation of this system, but feels language suggested by the KDR would provide statutory clarification.

## Proposed Changes to K.S.A. 74-50,131

K.S.A. 74-50,131(a)

As used in this act: "Qualified firm" means a for-profit business establishment, subject to state income, sales or property taxes, identified under the manufacturing standard industrial classification codes as in effect July 1, 1993, major groups 20 through 39, major groups 40 through 49, and major groups 60 through 89, or is identified as a corporate or regional headquarters or back-office operation of a national or multi-nation corporation regardless of SIC code. *A business establishment may be assigned a standard industrial classification code according to the primary business activity at a single physical location in Kansas.*



**ALDERSON, ALDERSON, WEILER,  
CONKLIN, BURGHART & CROW, L.L.C.**  
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\_\_\_\_\_  
LL. M TAXATION  
\*LICENSED TO PRACTICE IN  
KANSAS AND MISSOURI

MEMORANDUM

TO: Senate Committee on Commerce

FROM: Alan F. Alderson, Legislative Counsel, Western  
Retail Implement and Hardware Association and  
Mid-America Lumbermens Association *AFA*

RE: Senate Bill No. 179

DATE: February 11, 1999

Thank you Madame Chairman for the opportunity to speak in support of Senate Bill No. 179. The bill would expand the list of eligible businesses who would be able to qualify for the high performance incentive program. As you know, this particular program provides attractive incentives to businesses who both expand their operations in Kansas and pay a proportionately higher wage to its employees. When the original legislation was passed in 1993, it was limited to what were considered to be "hard core" manufacturers. Over the years, the legislation has been expanded in recognition of the other types of businesses which create and maintain jobs for Kansas residents.

The amendment appearing on Line 19 of Page 1 of the bill allows wholesale and distribution operations to qualify for the high performance incentive program benefits. Such businesses play a vital role in the Kansas economy and the legislation should be expanded to acknowledge that fact.

On behalf of the Western Retail Implement and Hardware Association and Mid-America Lumbermens Association, I urge your support for Senate Bill 179. I would be happy to respond to any questions you might have.

MAB:sdw:kc

Senate Commerce Committee

Date: 2-12-99

Attachment # 4

SMART CHOICE

## *Kohl's to build distribution center in Blue Springs, Mo.*

**...will initially create 300 jobs; open in 2000**

**KOHL'S**

*That's more like it.*

Kohl's department stores recently announced plans to build a distribution center in Blue Springs, Mo., part of the 14-county Kansas City Area.

The \$38 million center will initially create 300 full-time jobs and is expected to grow to 600. The 520,000 sq. ft. facility will be the largest single-use building constructed in eastern Jackson County in 30 years.

The building will be located on a 70-acre tract, and stretch for a quarter-mile along the Adams Dairy Parkway corridor in Blue Springs. When complete, the center will distribute to more than 100 stores in Kansas, Missouri and Iowa. This will be Kohl's fourth distribution center.

Kohl's Corporation, a Fortune 500 retail company with \$3.1 billion annual sales in 1997, operates more than 200 family-oriented specialty department stores in the U.S.

"Kohl's selected Kansas City for two reasons — first, the location is perfect for meeting the needs of our Western expansion, and also because the city and state have been very willing to work with us," said Carolyn Blonc, Kohl's executive vice president. (12/98)

*The Kansas City Area Development Council is responsible for the attraction of business and industry to the 14-county, bistate metropolitan area of 2 million. The America's SmartCities® technology plan is positioning the Kansas City metro as the nation's best place to do business electronically.*

**Kansas City Area Development Council**  
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**1.800.SMART KC**

**AMERICA'S**  
**SENATE COMMERCES COMMITTEE**

Date: 2-12-99

Attachment # 5

1 tains to a claim pending before the administrative law judge.  
 2 Sec. 9. K.S.A. 1998 Supp. 44-557a is hereby amended to r  
 3 follows: 44-557a. (a) The director shall: (1) Compile and publish st  
 4 to determine the causation of compensable disabilities in the s  
 5 Kansas and (2) compile and maintain a database of information o  
 6 characteristics and costs related to open and closed claims, in o  
 7 determine the effectiveness of the workers compensation act to f  
 8 adequate indemnity, medical and vocational rehabilitation compe  
 9 to injured workers and to return injured workers to remunerati  
 10 ployment. The commissioner of insurance shall cooperate with the  
 11 tor and shall make available any information which will assist the d  
 12 in compiling such information and statistics and may contract wi  
 13 director and the secretary of the department of health and environm  
 14 to collect such information as the director deems necessary.

15 (b) Each self-insured employer, group-funded workers compensation  
 16 pool, insurance carrier and vocational rehabilitation provider shall submit  
 17 to the director the disposition of a statistically significant sample of open  
 18 and closed claims under the act and, in connection with the closing of  
 19 each claim in which payments were made, the following: (1) The dates,  
 20 time intervals, amounts and types of weekly disability payments made, (2)  
 21 the dates and gross amounts of payments made to each type of medical  
 22 compensation provider, (3) the dates and type of service for which pay-  
 23 ment was made and the gross amounts paid to each vocational rehabili-  
 24 tation provider, and (4) the dates and types of fees paid as claim costs.  
 25 Each self-insured employer, group-funded workers compensation pool,  
 26 insurance carrier, vocational rehabilitation provider, ~~health care provider~~  
 27 or health care facility shall submit medical information, by procedure,  
 28 charge and zip code of the provider, *or by hospital charge and related*  
 29 *diagnostic and procedure codes* in order to set the maximum medical fee  
 30 schedule. The director of workers compensation may adopt and prom-  
 31 ulgate such rules and regulations as the director deems necessary for the  
 32 purposes of administering and enforcing the provisions of this section.

33 (c) The director may contract for professional actuarial or statistical  
 34 services to provide assistance in determining the types of information and  
 35 the methods of selecting and analyzing information as may be necessary  
 36 for the director to conduct studies of open and closed claims under the  
 37 workers compensation act and to enable the director to make valid sta-  
 38 tistical conclusions as to the distribution of costs of workers compensation  
 39 benefits.

40 (d) The director shall obtain such office and computer equipment  
 41 and employ such additional clerical help as the director deems necessary  
 42 to gather such information and prepare such statistics.

43 Sec. 10. K.S.A. 1998 Supp. 44-5,120 is hereby amended to read as

*(e) If a self-insured employer, group-funded workers compensation pool, insurance carrier or vocational rehabilitation provider fails to supply the information required by this section, the director shall issue and serve upon such person a summary order or statement of the charges with respect thereto and a hearing shall be conducted thereon in accordance with the provisions of the Kansas administrative procedure act. An administrative penalty of up to \$500 for each violation or act, along with an additional penalty of up to \$100 for each week thereafter that such report or other information is not provided to the director shall be imposed.*

Senate Commerce Committee

Date 2-12-99

Attachment # 6-1 thru 6-7

44-5,104. Accident prevention programs; requirements and reports; inspections; duties of secretary of human resources; failure to maintain, penalties. (a) Each insurance company or group-funded self-insurance plan providing workers compensation insurance coverage in Illinois shall maintain and may offer to provide accident prevention programs as a prerequisite for authority to provide such insurance or coverage. The accident prevention programs shall be adequate to furnish accident prevention services required by the nature of the operations of the policyholders or other covered entities and the accident prevention services shall include surveys, recommendations, training programs, consultations, analyses of accident causes, industrial hygiene and industrial health services to implement the program of accident prevention services. The accident prevention programs shall be staffed with field safety representatives. Each field safety representative shall be a person who is (1) a college graduate who has a bachelor's degree in science, ~~business,~~ safety or loss control, or engineering, (2) a registered professional engineer, (3) a certified safety professional, (4) a certified industrial hygienist, (5) an individual with 10 years of experience in occupational safety and health, (6) a person who is working under direct supervision of a person who meets the qualification requirements of this section (7) a person who has attained the designation of associate in loss control management or associate in risk management from the insurance institute of America, who has attained the designation of occupational safety and health technologist from the board of certified safety professionals, or who has attained any other comparable designation or certification by a recognized organization as determined by the secretary of human resources, or (8) an individual who has completed a certified training program in accident prevention services approved by the secretary of human resources. The insurance company or group-funded self-insurance plan may employ qualified personnel, retain qualified independent contractors, contract with the policyholder to provide qualified accident prevention personnel and services, or use a combination of such methods to fulfill the obligations imposed by this section. Accident prevention personnel shall have the qualifications required for field safety representatives.

shall

upon request of the covered employer

industrial hygiene

who has attained the designation from the board of certified safety professionals,

who has attained the designation from the American board of industrial hygiene

five



(b) The secretary of human resources may conduct such inspections as the secretary deems necessary to determine the adequacy of the accident prevention services required by subsection (a) for each insurance company and group-funded self-insurance plan providing workers compensation insurance coverage in Kansas.

, including, but not limited to, random inspections and those based upon employer complaints. Documented employer complaints shall be appropriately investigated and the results shall be reported to the commissioner of insurance. The secretary shall not be required by this section to inspect each insurance company or group-funded self-insurance plan.

(c) A notice that accident prevention services are available to the policyholder from the insurance company shall appear in no less than ten-point boldface type on the front page of

each workers compensation insurance policy delivered or issued for delivery in this state.

(d) At least once each year, each insurance company or group-funded self-insurance plan providing workers compensation insurance in Kansas shall submit to the director of workers compensation detailed information on the type of accident prevention programs offered to the policyholders by the insurance company or to the covered entities by the group-funded self-insurance plan, as the case may be. The information shall include:

- (1) The amount of money spent by the insurance company or group-funded self-insured plan on accident prevention services;
- (2) the number and qualifications of field safety representatives employed;
- (3) the number of site inspections performed;
- (4) any accident prevention services made available under a contractual arrangement;
- (5) a specification and listing of the premium size of the risks to which accident prevention services were actually provided;
- (6) evidence of the effectiveness of and accomplishments in accident prevention; and
- (7) any additional information required by the director of workers compensation.

names,

(e) If the insurance company or group-funded self-insurance plan does not maintain or provide the accident prevention services required by this section, the director of workers compensation shall notify the commissioner of insurance. Upon receiving such notification, the commissioner of insurance shall presume the insurance company or group-funded self-insurance plan knew or reasonably should have known of the violation and shall assess the penalty prescribed therefore pursuant to K.S.A. 40-2,125 and amendments thereto.

The secretary shall send the information and results obtained pursuant to subsection (d) to the insurance commissioner who shall widely disseminate information about the program.

employ the personnel necessary to enforce the provisions of this section and shall employ sufficient safety inspectors to perform inspections at job sites or other work places [and at the locations] of the accident prevention programs of each insurance company or group-funded insurance plan which is subject to this section to determine the adequacy of the accident prevention services provided. The safety inspectors shall have the qualifications required for field safety representatives by subsection (a).

and may audit

(g) The insurance company or group-funded self-insurance plan, and any agent, servant, or employee thereof, shall have no liability with respect to any accident based on the allegation that such accident was caused or could have been prevented by a program, inspection or other activity or by a service undertaken or not undertaken by the insurance company or group-funded self-insurance plan for the prevention of accidents in connection with operations of the employer. This immunity shall not affect the liability of the insurance company or group-funded self-insurance plan for compensation or as otherwise provided in this act.



110,122. Same, acts or practices constituting crimes, procedure; reporting alleged violations; review and investigation. (a) If the director or the assistant attorney general assigned to the division of workers compensation has probable cause to believe a fraudulent or abusive act or practice or any other violation of the workers compensation act is of such significance as to constitute a crime, a copy of any order, all investigative reports and any evidence in the possession of the division of workers compensation which relates to such act, practice or violation shall be forwarded to the prosecuting attorney of the county in which the act or any of the acts were performed which constitute the fraudulent or abusive act or practice or other violation. X

may

(b) Any person who believes a violation of the workers compensation act has been or is being committed may notify the division of workers compensation of the department of human resources immediately after discovery of the alleged violation. The person shall send to the division of workers compensation, in a manner prescribed by the director, the information describing the facts of the alleged violation and such additional information relating to the alleged violation as the director may require. The director shall cause an evaluation

Any case which a county attorney declines to prosecute shall be returned promptly to the director. The assistant attorney general assigned to the division of workers compensation shall then prosecute the case if, in the opinion of the assistant attorney general, the acts or practices involved still warrant prosecution.

of the facts surrounding the alleged violation to be made to determine the extent, if any, to which violations of the workers compensation act exist, which shall include a review and investigation by the assistant attorney general assigned to the division to the extent as may be deemed necessary to determine whether there has been a violation of the workers compensation act.

5-7  
6-7

**44-5,125.** Workers compensation fraud and other acts or practices constituting crimes; penalties; repayment of certain amounts, interest; cause of action, certain monetary damages. (a) (1) Any person who obtains or attempts to obtain workers compensation benefits for such person or another, or who denies or attempts to deny the obligation to make any payment of workers compensation benefits by knowingly or intentionally: (A) Making a false or misleading statement, (B) misrepresenting or concealing a material fact, (C) fabricating, altering, concealing or destroying a document; (D) receiving

temporary total disability benefits or permanent total disability benefits to which they are not entitled, while employed, or (E) conspiring with another person to commit any act described by paragraph (1) of this subsection (a), shall be guilty of:

(i) A class A nonperson misdemeanor, if the amount received as a benefit or other payment under the workers compensation act as a result of such act or the amount that the person otherwise benefited monetarily as a result of a violation of this subsection (a) is \$500 or less;

(ii) a severity level 9, nonperson felony, if such amount is more than \$500 but less than \$25,000;

(iii) a severity level 7, nonperson felony, if the amount is more than \$25,000, but less than \$50,000;

(iv) a severity level 6, nonperson felony if the amount is more than \$50,000, but less than \$100,000; or

(v) a severity level 5, nonperson felony if the amount is more than \$100,000.

(b) Any person who knowingly and intentionally presents a false certificate of insurance that purports that the presenter is insured under the workers compensation act, shall be guilty of a level 8, nonperson felony.

(c) A health care provider under the workers compensation act who knowingly and intentionally submits a charge for health care that was not furnished, shall be guilty of a level 9, nonperson felony.

tain a more favorable workers compensation insurance premium rate than that to which the person is entitled, who prevents, reduces, avoids or attempts to prevent, reduce or avoid the payment of any compensation under the workers compensation act, or who fails to communicate a settlement offer or similar information to a claimant under the workers compensation act, by, in any such case knowingly or intentionally: (1) Making a false or misleading statement; (2) misrepresenting or concealing a material fact; (3) fabricating, concealing or destroying a document; or (4) conspiring with another person or persons to commit the acts described in clause (1), (2) or (3) of this subsection shall be guilty of a level 9, nonperson felony.

(e) Any person who has received any amount of money as a benefit or other payment under the workers compensation act as a result of a violation

of subsection (a) or (c) and any person who has otherwise benefited monetarily as a result of a violation of subsection (a) or (c) shall be liable to repay an amount equal to the amount so received by such person or the amount by which such person has benefited monetarily, with interest thereon. Any such amount, plus any accrued interest thereon, shall bear interest at the current rate of interest prescribed by law for judgments under subsection (e)(1) of K.S.A. 16-204 and amendments thereto per month or fraction of a month until repayment of such amount, plus any accrued interest thereon. The interest shall accrue from the date of overpayment or erroneous payment of any such amount or the date such person benefited monetarily.

(f) Any person aggrieved by a violation of subsection (a), (b), (c) or (d) shall have a cause of action against any other person to recover any amounts of money erroneously paid as benefits or any other amounts of money paid under the workers compensation act, and to seek relief for other monetary damages, for which liability has accrued under this section against such other person. Relief under this subsection is to be predicated upon exhaustion of administrative remedies available in K.S.A. 44-5,120 and amendments thereto.

(g) Nothing in this section shall prohibit an employer from exercising a right to reimbursement under K.S.A. 44-534a, 44-556 or 44-569a and amendments thereto.

*(h) Prosecution for any crime under this section must be commenced within five years after its discovery, which shall not include any time period set forth in K.S.A. 1998 Supp. 21-3106 (8) and amendments thereto.*