

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE

The meeting was called to order by Chairman Don Dahl at 9:00 A.M. on January 25, 2005 in Room 241-N of the Capitol.

Committee members absent: Dale Swenson- unexcused

Committee staff present: Jerry Ann Donaldson, Kansas Legislative Research Department  
Renae Jefferies, Office of Revisor of Statutes  
June Evans, Committee Secretary

Conferees appearing before the committee: Dick Cook, Supervisory Commercial Multi-peril and Casualty, Kansas Insurance Department  
Wayne Maichels, Director of Employment Security

The Chairman opened the meeting and said there were minutes of previous meetings before them and would ask for approval at the end of the meeting.

Mr. Wayne Maichels, Director of Employment Security is here to address questions that were asked last week when the Secretary of Labor gave a briefing.

Mr. Maichels stated that people just wanting part time employment are not qualified to receive workers compensation unemployment insurance.

Employers have to pay unemployment insurance taxes on all part or full-time employees. If employers control, direct, or supervise an individual, the individual is classified as an employee (Attachment 1).

Dick Cook, Supervisory Commercial Multi-peril and Casualty, Kansas Insurance Department, gave an overview on workers compensation insurance market and rating issues in Kansas.

In order for an insurance company to write workers compensation insurance in Kansas, it must be licensed in Kansas and be authorized to write workers compensation insurance. Current records indicate that there are almost 220 carriers writing workers compensation insurance in Kansas.

According to recent information provided by the National Council on Compensation Insurance, Inc. (NCCI), the rating organization used by the carriers, there are approximately 53,500 employers paying over \$365 million in annual Kansas workers compensation premium.

There are several types of employers that have formed pools under the Chapter 44 workers compensation law. The different categories of these pools are: 1. Construction Contractors (2 pools); 2. Nursing Homes (2 pools); 3. Restaurants and Motels (1 pool); 4. Hospitals (1 pool); 5. Automobile Dealers (2 pools); 6. Feedlots (1 pool); 7. Truckers (1 pool); and 8. Dissimilar Employers (1 pool).

Some of the pros to pooling are the availability of coverage, no Plan "penalties", increased loss control and safety programs, control of claims costs, accrual of investment income accrues to pool members, possibility of lower costs or premium and the possibility of return of surplus (dividends).

Some of the cons to pooling are pools are not insurance companies, members of pools are jointly and severally liable, risk is not transferred, excess insurance is required and pressure exists from membership association regarding pool membership.

Premiums paid by the employers should be adequate to cover the claims incurred by their insurance companies. Rates are usually adjusted annually, based on premium and loss information provided by the carriers to the NCCI. The major premium components are: (a) base rates, (b) classifications, (c) experience rating and (d) payroll size (Attachment 2).

The minutes of January 18, 19, and 20 were approved as presented.

CONTINUATION SHEET

MINUTES OF THE House Commerce and Labor Committee at 9:00 A.M. on January 25, 2005 in Room 241-N of the Capitol.

The meeting adjourned at 10:35 a.m. and the next meeting will be January 26, 2005.





# EMPLOYER/EMPLOYEE RELATIONSHIP

Common-law rules that show control are described in the following 20 items. Keep in mind that any single fact or small group of facts is not conclusive evidence of the presence or absence of control.

These factors are not present in every case and some factors do not apply to certain occupations. The degree of importance and weight given each factor varies with different occupations and the reason for its existence. Therefore, in each case, two things must be considered:

1. Does the factor exist?
2. What is the reason for or importance of its existence or non-existence?

All facts must be weighed, and the conclusion must be based on a careful evaluation of all the facts and the presence or absence of factors which point to an employer/employee relationship or to an independent contractor status.

1. **INSTRUCTIONS** → A person who is required to comply with instructions about when, where and how he/she is to work is ordinarily an employee. Some employees may work without receiving instructions because they are highly proficient and conscientious workers. However, the control factor is present if the employer has the right to require compliance with the instructions. The instructions which show how to reach the desired result may be oral or written (manuals or procedures).

**TRAINING** → Training a person by an experienced employee working with him/her, by correspondence, by required attendance at meeting, and by other methods indicates that the employer wants the services performed in a particular method or manner. This is especially true if the training is given periodically or at frequent intervals. An independent contractor ordinarily uses his own methods and receives no training from the purchase of his/her services. In fact, it is usually his methods which bring him to the attention of the purchaser.

3. **INTEGRATION** → Integration of the worker's services into the business operations generally shows that he/she is subject to direction and control. In applying the integration test, first determine the scope and function of the business and then whether the services of the individual are merged into it. When the success or continuation of a business depends to an appreciable degree upon the performance of certain services, the people who perform those services must necessarily be subject to a certain amount of control by the owner of the business.

4. **SERVICES RENDERED PERSONALLY** → If the services must be rendered personally, presumably the employer is interested in the methods as well as the results. He is interested in not only the result, but also the worker.

5. **HIRING, SUPERVISING AND PAYING ASSISTANTS** → Hiring, supervising and paying assistants by the employer generally shows control over the persons on the job. Sometimes when one worker may hire, supervise and pay the other workers. He/she may do so as the result of a contract under which he/she agrees to provide materials and labor and under which he/she is responsible for only attainment of a result. In this case, the worker is an independent contractor. On the other hand, if the worker hires, supervises and pays others at the direction of the employer, he/she may be an employee acting in the capacity of a foreman for or representative of the employer.

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Atch #1

6. CONTINUING RELATIONSHIP → A continuing relationship between an individual and the person for whom he/she performs services is a factor which indicates that an employer/employee relationship exists. Continuing services may include work performed at frequently recurring, though somewhat irregular, intervals either on call of the employer or whenever the work is available. If the arrangement contemplates continuing or recurring work, the relationship is considered permanent, even if the services are part-time, seasonal or of short duration.
7. SET HOURS OF WORK → The establishment of set hours of work by the employer is a factor indicating control. This condition bars the worker from being master of his/her own time, which is the right of the independent contractor. If the nature of the occupation makes fixed hours impractical, a requirement that the worker work at certain times is an element of control.
8. FULL-TIME REQUIRED → If the worker must devote full-time to the business of the employer, the employer has control over the amount of time the worker spends working and this restricts him from doing other gainful work. An independent contractor, on the other hand, is free to work when and for whom he/she chooses.

Full-time does not necessarily mean an 8-hour day or a 5 or 6 day week. It's meaning may vary with the intent of the parties, the nature of the occupation and customs in the locality. These conditions should be considered in defining "full-time". Full-time services may be required, even though not specified in writing or orally. For example, to produce a required minimum volume of business may compel a person to devote all their working time to that business; or they may not be permitted to work for anyone else; or to earn a living, they must work full-time.

9. DOING WORK ON EMPLOYER'S PREMISES → Doing the work on the employer's premises in itself is not control. However, it does imply that the employer has control, especially when the work is the kind that could be done elsewhere. A person working in the employer's place of business, physically within the employer's direction and supervision. the use of desk space and telephone and stenographic services provided by an employer places the worker within the employer's direction and supervision.

Work done off the premises indicates some freedom from control. However, this fact by itself does not mean that the worker is not an employee. Control over the place of work is indicated when the employer has the right to compel a person to travel a designated route, to canvass a territory within a certain time, or to work at specific places as required. In some occupations, services must be performed away from the premises of the employer; for example, employees of construction contractors or taxicab drivers.

10. ORDER OR SEQUENCE SET → If a person must perform services in the order or sequence set by the employer, it shows that the worker is not free to follow their own pattern of work, but must follow the established routines and schedules of the employer. Often, because of the nature of an occupation, the employer either does not set the order of the services or sets them infrequently. It is sufficient to show control, however, if the employer retains the right to do so. The outside commissioned sales worker, for example, usually is permitted latitude in mapping out his activities and may work "on his own" to a considerable degree. In many cases, however, at the direction of the employer, the worker must report to the office at specified times, follow up on leads, and perform certain tasks at certain times. Such directions interfere with and take preference over the salesperson's own routines or plans; this fact indicates control.



11. ORAL OR WRITTEN REPORTS → Another element of control is the requirement for submitting regular oral or written reports to the employer. This action shows that the person is compelled to account for his/her actions. Such reports are useful to the employer for present controls or future supervision; that is, they enable the employer to determine whether instructions are being followed or, if the person has been "on his own", whether instructions should be issued.

12. PAYMENT BY HOUR, WEEK, MONTH → Payment by the hour, week, or month generally points to an employer/employee relationship, provided that this method of payment is not just a convenient way of paying a lump sum agreed upon as the cost of doing a job. The payment by a firm of regular amounts at stated intervals to a worker strongly indicates an employer/employee relationship. (The fact that payments are received from a third party, e.g. tips or fees, is irrelevant in determining whether an employment relationship exists.)

The firm assumes the hazard that the services of the worker will be proportionate to the regular payments, thus warranting the assumption that, to protect its investment, the firm has the right to direct and control the performance of the worker. It is also assumed in absence of evidence to the contrary that the worker, by accepting payment upon such basis, has agreed that the firm shall have such right of control. Obviously, the firm expects the worker to give a day's work for a day's pay.

Generally, a person is an employee if he/she is guaranteed a minimum salary or if given a drawing account of a specified amount at stated intervals and is not required to repay any excess drawn over commissions earned.

Payment made by the job or on a straight commission may indicate that the person is an independent contractor.

13. PAYMENT OF BUSINESS AND/OR TRAVELING EXPENSE → If the employer pays the person's business and/or traveling expenses, the person is ordinarily an employee. The employer, to be able to control expenses, must retain the right to regulate and direct the person's business activities.

Conversely, a person who is paid on a job basis and who has to take care of all incidental expenses is generally an independent contractor. Since the worker is accountable only to him/herself for expenses, this person is free to work according to his/her own methods and means.

14. FURNISHING OF TOOLS, MATERIALS → The fact that an employer furnishes tools, materials, etc. tends to show the existence of an employer/employee relationship. Such an employer can determine which tools the person is to use and, to some extent, in what order and how they shall be used.

An independent contractor ordinarily furnishes his own tools. However, in some occupational field, e.g. skilled workers customarily furnish their own tools. They are usually small hand tools. Such a practice does not necessarily indicate a lack of control over the services of the worker.

15. SIGNIFICANT INVESTMENT → Investment by a person in facilities used in performing services for another is a factor which tends to establish an independent contractor status. On the other hand, lack of investment indicates dependence on the employer for such facilities and, accordingly, the existence of an employer/employee relationship.

In general, facilities include equipment or premises necessary for the work, such as office furniture, tools, machinery, etc. This term does not include tools, instruments, clothing, etc. commonly provided by employees in their trade, nor does it include education, experience, or training.

In order for an investment to be a significant factor in establishing that an employer/employee relationship does not exist, it must be real, it must be essential and it must be adequate:

**Is Investment Real?** Little weight can be accorded to a worker's investment in equipment if the worker buys it on time from the person for whom the work is done and if the worker's equity in the equipment is small. The same is true if the worker purchases equipment from the employer on a time basis, but the employer retains title to the equipment, has the option of retaining legal ownership by paying the worker the amount of his/her equity in the equipment at any time before the equipment is fully paid, requires its exclusive use in the operation of his business, and directs the worker in its use. Such investments are not "real".

**Is Investment Essential?** An investment in equipment or premises not required to perform the services in question is not essential. For example, a photographer's model may have a large investment in a wardrobe; however, if the model poses for a photographer who ordinarily requires that the models wear furnished clothing, the investment is not essential even though the photographer lets the model use his/her own wardrobe as a matter of indulgence. The photographer hires the model only for photogenic qualities and the ability to pose; it is not required that he/she furnish their own wardrobe.

**Is Investment Adequate?** Ownership by an individual of facilities adequate for the work and independent of the facilities of another, points to an independent contractor relationship. Ownership of such facilities is an influential factor in letting the contract of service. The important point is the value of the investment, compared to the total value of all the facilities for doing the work. An investment in facilities is not adequate if the worker must rely appreciably on the facilities of others to perform the services. For example, an individual who is engaged to perform a machine operation on their own premises and who furnishes their own equipment of substantial value may be a self-employed subcontractor, instead of an employee of the manufacturer.

Significant in determining the weight of the investment factor is determining who has the right to control the facilities. Ownership of equipment or premises points toward an independent contractor status, because it is inferred that the owner has the right to control their use. However, if the owner as part of the agreement, surrenders complete dominion over the equipment or premises and the right to decide how they shall be used, "ownership" loses its significance.

Suppose an individual who owns a truck is hired by a trucking company to deliver goods and materials to business firms. The fact that the worker uses their own truck to perform these services is not significant, as, in general, the firm uses it like its own trucks. For example, the firm sets the order and time of deliveries, pays for all upkeep and repair of the individual's truck while used in its business or otherwise compensates the individual for these costs, restricts the individual from using the truck to perform services for others, etc.

16. **REALIZATION OF PROFIT OR LOSS** → The person who can realize a profit or suffer a loss as a result of the services is generally an independent contractor, but the individual who cannot is an employee.

"Profit or Loss" implies the use of capital by the individual in an independent business of his/her. Thus, opportunity for higher earnings, such as from pay on a piecework basis or the possibility of gain or loss from a commission arrangement, is not considered profit or loss.

Whether a profit is realized or a loss is suffered generally depends upon a management decision; that is, the one responsible for a profit or loss can use his/her own ingenuity, initiative and judgement in conducting the business or enterprise. Opportunity for profit or loss may be established by one or more of a variety of circumstances, e.g.:

- a. the individual hires, directs and pays assistants;
- b. the worker has his/her own office, equipment, materials or other work facilities;
- c. the worker has continuing and recurring liabilities or obligations, and success or failure depends on the relation of his/her receipts to expenditures;
- d. the worker agrees to perform specific jobs for prices agreed upon in advance and pay expenses incurred in connection with the work;
- e. the worker's services and those of assistants establish or affect their business reputation and not the reputation of those who purchase the services.

17. WORKING FOR MORE THAN ONE FIRM AT A TIME → A person who works for a number of persons or firms at the same time is generally an independent worker because the person is usually free from control by any of the firms. It is possible, however, for a person to work for a number of people or firms and be an employee of one or all of them.
18. MAKING SERVICES AVAILABLE TO GENERAL PUBLIC → The fact that a person makes the services available to the general public usually indicates an independent contractor relationship. An individual may hold their services out to the general public in a number of ways. They may have their own office and assistants, they may hang out a "shingle" in front of their home or office, they may hold business licenses, they may be listed in business directories or maintain business listings in telephone directories, or they may advertise in newspapers, trade journals, magazines, etc.
19. RIGHT TO DISCHARGE → The right to discharge is an important factor in indicating that the person possessing the right is an employer. The employer exercises control through the ever-present threat of dismissal, which causes the worker to obey the instructions. An independent contractor, on the other hand, cannot be fired so long as results are produced which meet the contract specifications.
20. RIGHT TO TERMINATE → An employee has the right to end his/her relationship with the employer at any time they wish, without incurring liability. An independent contractor usually agrees to complete a specific job; they are responsible for its satisfactory completion or legally obligated to make good for failure to complete the job.





# Kansas Insurance Department

**Sandy Praeger** COMMISSIONER OF INSURANCE

To: Representative Donald Dahl, Chairperson  
And Members  
House Committee on Commerce and Labor

From: Dick Cook

Subject: Update on Workers Compensation Insurance Issues

Date: January 25, 2005

Chairman Dahl and Committee Members, I appreciate the opportunity to meet with you to discuss workers compensation insurance market and rating issues in Kansas.

## **Features and Market Conditions Pertaining to Insurance Carriers and Group-Funded Pools Writing Kansas Workers Compensation Coverage**

In order for an insurance company to write workers compensation insurance in Kansas, it must be licensed in Kansas and be authorized to write workers compensation insurance. The carrier must file its rules, rates and forms with our office in accordance with Kansas law. According to our most current records, there are almost 220 carriers writing workers compensation insurance in Kansas. Over the past several years, this figure has remained fairly constant. For example, in 1997 there were approximately 235 carriers writing this coverage in Kansas, and in 2000 there were approximately 250 carriers writing the coverage.

According to recent information provided by the National Council on Compensation Insurance, Inc. (NCCI), the rating organization used by the carriers, there are approximately 53,500 employers paying over \$365 million in annual Kansas workers compensation premium.

Workers compensation insurance written by insurance companies in Kansas is either written by an insurance company direct (voluntary market) or through the Kansas Workers Compensation Insurance Plan (the Plan). The Plan is set up for employers who in good faith are entitled to purchase workers compensation insurance but are unable to secure the coverage through the voluntary market. Last year was the final year of a four year contract in which NCCI served as the administrator for the Plan, and Liberty Insurance Corporation and Continental Western Insurance Company served as servicing carriers for the Plan.

In 2004, the Plan's Governing Board conducted a bid process for the Plan's services. The successful bidders were NCCI as Plan Administrator, and Continental Western Insurance Company and Travelers Indemnity Insurance Company as the servicing carriers. The contract runs from January 1, 2005 through December 31, 2008.

According to information provided by NCCI, the Plan currently has nearly 15,000 insured risks accounting for approximately \$61 million in annual premium. Please see Exhibit 1, which shows a breakdown by Premium Range. For comparison purposes, the Plan peaked during 1993 with approximately \$143 million in annual premium and 21,000 policies.

K.S.A. 44-581 in the Workers Compensation Act defines group-funded pools in Kansas as "group-funded workers compensation pools". These pools are licensed by the Kansas Insurance Department under the Act. The 1983 Kansas Legislature enacted the pool portion of the Act.

Kansas law requires five or more employers in the same bona fide professional, merchant, or trade association that has existed for five or more years, in the same, similar, or closely related type of business, with a combined net worth of over \$1 million, and at least \$250,000 in Kansas workers compensation premium for the formation of a pool. In 1993, the Kansas law was amended to allow dissimilar types of employers to pool if an adequate prediction of future losses can be made, if the pool has a combined net worth of over \$1.25 million, and if the pool has at least \$500,000 in Kansas workers compensation premium.

There are several types of employers that have formed pools under the Chapter 44 workers compensation law. The different categories of these pools are listed as below:

1. Construction Contractors (2 pools)
2. Nursing Homes (2 pools)
3. Restaurants and Motels (1 pool)
4. Hospitals (1 Pool)
5. Automobile Dealers (2 pools)
6. Feedlots (1 pool)
7. Truckers (1 pool)
8. Dissimilar Employers (1 pool)

In addition to the above information regarding pools, there are four workers compensation pools for municipalities, which exist under a separate law under Chapter 12. One of these pools consists of school districts and the other three consist of counties and cities. There are some of the same requirements for these pools as those requirements for Chapter 44 pools; however, overall the requirements are less stringent for Chapter 12 workers compensation pools.

There are currently 15 Chapter 44 and 12 pools offering workers compensation in Kansas. According to our most recent information, these 15 pools provide coverage to over 3,100 member employers and account for approximately \$66 million in annual premium.

The following are some pros to pooling:

1. Availability of coverage.
  - a. Voluntary market may not write even good risks if we are in a hard market cycle or if the employer is in a type of business believed to be extra hazardous or subject to a frequency of claims.

2. Coverage is provided without the Plan "penalties".
  - a. No premium discount.
  - b. 17.5% surcharge.
  - c. Assigned Risk Adjustment Plan surcharge.
  - d. No possibility of return of surplus (dividends).
3. Increased loss control and safety programs.
  - a. Loss control is specific to the industry since employers are generally in the same type of work.
  - b. Adequate safety is required in most pools or members are expelled for noncompliance.
4. Control of claims costs.
  - a. The pool handles its own claims or hires a service agent. The employers' needs are paramount.
5. Investment income accrues to pool members.
6. Possibility of lower costs or premium.
  - a. Pools can apply up to a 15% or 25% advanced discount to manual premiums for Chapter 44 and Chapter 12 workers compensation pools respectively.
7. Possibility of return of surplus (dividends).

The following are cons to pooling:

1. Pools are not insurance companies.
  - a. There is no Guaranty Association if the pool becomes insolvent.
  - b. Pools are not subject to most insurance laws.
2. Members of pools are jointly and severally liable.
  - a. All members are responsible for each member.
  - b. Each member is responsible for all members.
  - c. Assessments may be required to meet the pool's obligations under the Act and to maintain the solvency of the pool. Pools have been required to make assessments.
3. Risk is not transferred.
  - a. Purchasing insurance transfers risk to the insurance company.
  - b. Pooling requires sharing risk with the other pool members.
4. Excess insurance is required.
  - a. Favorable attachment points for aggregate coverage can be difficult to obtain. Dissimilar pools must have at least \$2 million aggregate limits that attach at no more than 125% of standard premium.
  - b. Unfunded liability gaps could exist between the pool's loss fund and the attachment of the excess policy creating the possibility for the need of an assessment.
  - c. Excess insurance has increased in cost and is harder to obtain in recent years.
5. Pressure from membership association regarding pool membership.
  - a. Successful pool operations require underwriting to keep the best risks in the pool. This may require exclusion of some association members from participation of the pool. The result could cause tension between association members.
  - b. Association executives and/or the trustees may feel pressure to permit poor risks into the pool.



## Rating Issues Effecting Workers Compensation Insurance

Premiums paid by the employers should be adequate to cover the claims incurred by their insurance companies. Rates are usually adjusted annually, based on premium and loss information provided by the carriers to the NCCI. The major premium components are:

1. Base Rates
2. Classifications
3. Experience Rating
4. Payroll Size

Prior to Kansas workers compensation reform legislation, which was enacted in 1993, insurance rates were on the rise. The insurance carriers were facing loss ratios over 90%, which is shown on the attached Exhibit 2, Workers Compensation Insurance Experience, which is compiled from insurers' annual statement information. This also shows a history of Kansas premium and loss information in Kansas from 1983 through 2003. There were a number of reasons that losses were growing faster than premium, one of which was medical cost inflation were high and there was a lack of medical fee schedules and utilization review.

Because the insurers were losing money on writing workers compensation insurance, the market tightened which drove a lot of employers into the Plan. In 1993, which was the peak year for the Plan, the Plan premium accounted for 39% of the total market premium. For comparison, in 1999, six years after the reform, the Plan premium was about 7% of the total market premium, and today NCCI estimates the Plan premium to be around 17.1% of the total market premium. Additionally, since the Plan's premium was not funding the losses, the insurers had to make up the losses by assessments. The goal is for the Plan to be self-funding to make it more desirable for insurers to write business in the voluntary market, and since insureds normally pay higher premium in the Plan, it is important to have the voluntary market carriers writing the insureds whenever possible.

Attached Exhibit 3, entitled History of Kansas Workers Compensation Rate Filings, fairly well summarizes what has happened with rates in Kansas before and after the reform of 1993. As you can see, from 1990 through 1993 the rate increases totaled 55.2% while after the reform, overall rates and loss costs have decreased 33.6%, which accounts for an approximate savings of \$109 million to Kansas employers. For illustration of difference in 1993 rates and 2005 rates, the following compares a few of the common classes used in Kansas:

Class Code No.	Description	Rates Effective 6-1-1993	Rates Effective 1-1-2005
5551	Roofing	\$36.80	\$18.03
5645	Carpentry	\$14.34	\$9.78
8742	Outside Salespersons	\$00.78	\$00.44
8810	Clerical	\$00.42	\$00.33



One additional item that came out of the 1993 reform was that Loss Costs were required to be filed by the NCCI instead of final rates for the voluntary market carriers. This meant the NCCI was to file the factor to pay for Loss and Loss Adjustment Expense while the insurers were to file the factor to account for their Administrative Expenses and Profit Loading. This factor is known as the Loss Cost Multiplier. Going to a loss cost system allowed the insurers more flexibility in developing their final rates and allowed for greater competition. As a result of this change, the loss cost system was originally filed by NCCI and made effective June 1, 1995. Exhibit 4, Calculation of Company Loss Cost Multiplier, is one of the forms that may be used by a workers compensation insurer for determining the insurer's loss cost multiplier.

A major change occurred in the rating of commercial insurance, including workers compensation, during the 1997 and 1999 legislative sessions. In 1997 the rating laws were changed from a prior approval system to a modified file and use system for the insurers filing their loss cost multipliers, and in 1999 the rating laws were amended to a true file and use system. The NCCI still has to file the loss costs for the department's prior approval, but once an insurer files its loss cost multiplier, it may be used. By law, there are situations where the department can disapprove the loss cost multiplier.

In the last couple of years, the loss cost multipliers have been on the rise. A couple of the reasons have been the downturn in the investment markets and the rise in the cost of reinsurance. Because of this, the voluntary market rates have been increasing even though the loss costs filed by the NCCI have remained fairly constant. However, within the last few months, we have started seeing carriers filing to decrease their loss cost multipliers.

The last item I wish to bring to your attention is the 2004 Oregon Workers' Compensation Premium Rate Ranking Summary, which is shown under Exhibit 5. Oregon, along with the cooperation of the other states shown in the rate ranking summary, compile information to come up with the states' Index Rate. According to the summary, there are only seven states with lower rate indices than Kansas.

I hope you have gained a better understanding of workers compensation insurance from some of the workers compensation issues that I have presented to you today.

2.6

Premium Distribution

KS AR 2004 w/ cancels

Users Report Description

Market Type is A/R.

Cancellations (Prorated) were Kept.

Premium is based on Any Exposure.

Policy Period 01/01/2004 through 12/31/2004.

State(s) = KS .

States are Separate.

Premium Limit is \$500000000.

Data Mart last updated on 01/03/2005.

State	Premium Range	Risk Count	% of Total Risks	Total Premium	% of Total Premium	Average Premium
KS	\$0 - 2249	10,998	74	8,332,777	13.6	758
KS	\$2250 - 4999	1,803	12.1	5,967,774	9.7	3,310
KS	\$5000 - 9999	958	6.4	6,593,641	10.8	6,883
KS	\$10000 - 49999	903	6.1	19,080,258	31.1	21,130
KS	\$50000 - 99999	132	0.9	9,457,957	15.4	71,651
KS	\$100000 - 499999	72	0.5	11,303,153	18.4	156,988
KS	\$500000 - 500000000	1	0	570,748	0.9	570,748
Total		14,867	100.00%	\$61,306,308	100.00%	\$4,124

WORKERS' COMPENSATION INSURANCE EXPERIENCE

YEAR	DIRECT PREMIUMS WRITTEN	DIRECT PREMIUMS EARNED	DIRECT LOSSES PAID	DIRECT LOSSES INCURRED	LOSSES PD. TO PREMIUM WRITTEN	LOSSES INCUR. TO PREMIUM EARNED
1983	147,137,981.00	148,669,330.00	96,289,968.00	115,282,150.00	65.4	77.5
1984	141,097,428.00	140,223,325.00	106,701,375.00	125,520,390.00	75.6	89.5
1985	172,985,620.00	170,955,138.00	120,755,675.00	147,438,366.00	69.8	86.2
1986	208,167,277.00	202,033,619.00	134,554,116.00	170,153,475.00	64.6	84.2
1987	223,674,161.00	222,846,661.00	147,885,631.00	195,885,084.00	66.1	87.9
1988	257,039,527.00	259,548,305.00	164,553,813.00	208,332,654.00	64	80.3
1989	264,102,264.00	263,386,009.00	184,857,801.00	239,142,874.00	70	90.8
1990	291,804,714.00	293,048,038.00	222,309,953.00	265,726,660.00	76.2	90.7
1991	341,012,872.00	337,125,586.00	243,751,957.00	321,497,577.00	71.5	95.4
1992	366,672,022.00	363,578,560.00	236,878,948.00	293,894,584.00	64.6	80.8
1993	367,030,245.00	365,646,558.00	220,091,021.00	231,228,324.00	60	63.2
1994	338,173,750.00	312,116,539.00	185,502,395.00	192,914,048.00	54.9	61.8
1995	312,745,351.00	322,205,785.00	159,776,412.00	139,528,898.00	51.1	43.3
1996	274,014,862.00	282,897,458.00	149,616,189.00	130,595,593.00	54.6	46.2
1997	261,121,536.00	261,895,503.00	145,248,549.00	134,603,154.00	55.6	51.6
1998	250,588,819.00	261,594,835.00	156,594,835.00	126,164,370.00	62.6	48.2
1999	251,341,523.00	252,545,287.00	170,144,109.00	179,376,781.00	67.7	71
2000	271,480,320.00	247,235,161.00	170,366,708.00	159,226,348.00	62.8	64.4
2001	291,575,463.00	269,386,691.00	190,426,537.00	237,335,832.00	65.31	88.1
2002	328,963,003.00	307,451,748.00	180,253,738.00	177,083,631.00	54.79	57.6
2003	341,421,177.00	324,780,102.00	173,028,718.00	205,767,268.00	50.68	63.36

1.2



**History of Kansas Workers' Compensation Rate Filings**

Effective Date of Change	<b>National Council on Compensation Insurance</b>			Overall Approved	Overall Requested
	Manufacturing	Contracting	All Other		
11/21/1989 (Disapproved)	0	0	0	0	22.6%
5/1/1990	7.3%	0.7%	7.3%	5.6%	22.6%
6/1/1991	23.4%	31.4%	21.5%	24.0%	30.9%
6/1/1992	26.9%	26.6%	17.2%	21.7%	31.4%
6/1/1993	5.4%	6.7%	2.0%	3.9%	21.3%
		In voluntary market		0%	
		In assigned risk plan		12.9%	
		Law change		-11.0%	

Effective Date of Change	Manufacturing	Contracting	Office and Clerical	Goods and Service	Misc.	Overall Approved	Overall Requested
6/1/1994	-1.7%	-3.4%	-2.4%	-3.9%	4.5%	-2.0%	-0.3%
6/1/1995 Voluntary Loss Costs	-5.7%	-4.3%	-9.3%	-8.3%	-8.7%	-6.9%	-5.0%
					Combined	-7.5%	
6/1/1995 Assigned Risk Plan Rates	-7.3%	-5.9%	-10.9%	-9.9%	-10.2%	-8.5%	-8.5%
6/1/1996 Voluntary Loss Costs	-13.1%	-11.1%	-9.8%	-6.4%	-12.3%	-10.4%	5.6%
					Combined	-11.5%	
6/1/1996 Assigned Risk Plan Rates	-18.5%	-16.7%	-15.4%	-12.2%	-17.8%	-16.0%	-1.1%
1/1/1998 Voluntary Loss Costs	-14.7%	-8.8%	-12.6%	-13.8%	-12.3%	-12.7%	-12.7%
					Combined	-13.2%	
1/1/1998 Assigned Risk Plan Rates	-19.1%	-13.5%	-17.1%	-18.3%	-16.8%	-17.2%	-17.2%
1/1/1999 Voluntary Loss Costs	-6.0%	-1.4%	-2.7%	-5.2%	-3.2%	-4.0%	-4.0%
					Combined	-4.2%	
1/1/1999 Assigned Risk Plan Rates	-9.1%	-4.7%	-5.9%	-8.3%	-6.5%	-7.2%	-7.2%



**History of Kansas Workers' Compensation Rate Filings**  
**National Council on Compensation Insurance**

Effective Date of Change	Manufacturing	Contracting	Office and Clerical	Goods and Service	Misc.	Overall Approved	Overall Requested
1/1/2000 Voluntary Loss Costs	-7.6%	2.3%	-1.8%	3.8%	0.6%	-0.5%	-0.5%
					Combined	-0.7%	
1/1/2000 Assigned Risk Plan Rates	-11.0%	-1.5%	-5.4%	-0.1%	-3.1%	-4.2%	-4.2%
1/1/2001 Voluntary Loss Costs	10.70%	-3.80%	0.20%	2.20%	8.50%	3.30%	3.50%
					Combined	4.30%	
1/1/2001 Assigned Risk Plan Rates	25.30%	8.90%	13.40%	15.70%	22.80%	17%	17.20%
1/1/2002 Voluntary Loss Costs	-2.90%	-7.10%	0.00%	-4.90%	-4.60%	-4.40%	-4.40%
					Combined	-4.00%	
1/1/2002 Assigned Risk Plan Rates	0.30%	-4.10%	3.20%	-1.80%	-1.50%	-1.30%	-1.30%
	(-1.3% is a combination of 5.2% rate decrease and 4.1% changes in AR pricing programs)						
1/1/2003 Voluntary Loss Costs	4.10%	-3.10%	12.00%	5.00%	-5.70%	1.80%	3.90%
					Combined	1.90%	
1/1/2003 Assigned Risk Plan Rates	5.30%	-2.00%	13.30%	6.20%	-4.60%	3.00%	5.20%
1/1/2004 Voluntary Loss Costs	4.80%	-1.30%	5.60%	1.40%	-5.60%	1.00%	4.80%
					Combined	1.90%	
1/1/2004 Assigned Risk Plan Rates	9.90%	3.50%	10.80%	6.30%	-1.00%	5.90%	9.10%
1/1/2005 Voluntary Loss Costs	3.80%	-2.50%	5.10%	0.80%	3.20%	1.70%	1.70%
					Combined	1.40%	
1/1/2005 Assigned Risk Plan Rates	2.50%	-3.70%	3.70%	-0.50%	1.90%	0.40%	0.40%

INSURER NAME \_\_\_\_\_ DATE \_\_\_\_\_

NAIC NUMBER \_\_\_\_\_

INSURER RATE FILING  
ADOPTION OF RATING ORGANIZATION PROSPECTIVE LOSS COSTS  
SUMMARY OF SUPPORTING INFORMATION FORM

CALCULATION OF COMPANY LOSS COST MULTIPLIER

1. Line, Subline, Coverage, Territory, Class, etc., combination to which this page applies \_\_\_\_\_

2. Loss Cost Modification:

A. The insurer hereby files to adopt the prospective loss costs in the captioned Reference Filing:

(CHECK ONE)

Without modification (factor = 1.000)

With the following modification(s). (Cite the nature and percent modification, and attach supporting data and/or rationale for the modification.) \_\_\_\_\_

B. Loss Cost Modification expressed as a Factor (see example below): \_\_\_\_\_

NOTE: IF EXPENSE CONSTANTS ARE UTILIZED, ATTACH "EXPENSE CONSTANT SUPPLEMENT" OR OTHER SUPPORTING INFORMATION. DO NOT COMPLETE ITEMS 3-7 BELOW.

3. Development of Expected Loss Ratio. (Attach exhibit detailing insurer expense data and/or other supporting information.)

	Selected Provisions
A. Total Production Expense	_____ %
B. General Expense	_____ %
C. Taxes, Licenses and Fees	_____ %
D. Underwriting Profit and Contingencies	_____ %
E. Other (explain)	_____ %
F. TOTAL	_____ %

4. A. Expected Loss Ratio:  $ELR = 100\% - 3F =$  \_\_\_\_\_ %  
 B. ELR in decimal form = \_\_\_\_\_

5. Company Formula Loss Cost Multiplier:  $(2B \div 4B) =$  \_\_\_\_\_

6. Company Selected Loss Cost Multiplier = \_\_\_\_\_  
 Explain any differences between 5 and 6 \_\_\_\_\_

7. Rate level change for the coverages to which this page applies \_\_\_\_\_ %

Example 1: Loss cost modification factor: If your company's loss cost modification is -10%, a factor of .90 (1.000 - .100) should be used.

Example 2: Loss cost modification factor: If your company's loss cost modification is +15%, a factor of 1.15 (1.000 + .150) should be used.



Table 2. Workers' compensation premium rate ranking

2004 Ranking	2002 Ranking	State	Index Rate	Effective Date
1	1	California	6.08	January 1, 2004
2	15	Alaska	4.39	January 1, 2004
3	2	Florida	4.20	October 1, 2003
4	3	Hawaii	3.73	January 1, 2004
5	14	Ohio	3.59	July 1, 2003
6	16	Kentucky	3.48	September 1, 2003
7	4	Delaware	3.44	December 1, 2003
8	10	Montana	3.41	July 1, 2003
9	7	Louisiana	3.37	January 1, 2004
10	17	District of Columbia	3.26	November 1, 2003
11	13	Connecticut	3.23	January 1, 2004
12	18	New Hampshire	3.19	January 1, 2004
13	8	Maine	3.08	January 1, 2004
14	5	Texas	3.08	January 1, 2003
15	19	Oklahoma	3.07	2/1/02 State Fund, 1/1/04 private
16	6	Rhode Island	3.01	November 1, 1998
17	25	Vermont	2.99	April 1, 2003
18	9	New York	2.97	December 1, 2003
19	12	Alabama	2.88	March 1, 2004
20	23	Pennsylvania	2.82	April 1, 2003
21	22	Minnesota	2.74	January 1, 2004
22	26	Missouri	2.67	January 1, 2004
23	20	Illinois	2.65	January 1, 2004
24	24	West Virginia	2.64	July 1, 2003
25	29	Tennessee	2.62	March 1, 2003
26	11	Nevada	2.58	January 1, 2004
27	36	New Mexico	2.56	January 1, 2004
28	38	Wyoming	2.43	January 1, 2004
29	31	New Jersey	2.38	January 1, 2004
30	30	Michigan	2.34	January 1, 2004
31	21	Colorado	2.33	January 1, 2004
32	34	North Carolina	2.32	August 29, 2003
33	32	Wisconsin	2.27	October 1, 2003
34	27	Idaho	2.25	January 1, 2004
35	45	Washington	2.20	January 1, 2004
36	33	Mississippi	2.19	March 1, 2003
37	28	Georgia	2.14	November 1, 2001
38	39	Nebraska	2.10	February 1, 2003
39	42	South Carolina	2.08	January 1, 2004
40	40	Maryland	2.06	January 1, 2004
41	48	South Dakota	2.05	July 1, 2003
42	35	<b>OREGON</b>	<b>2.05</b>	<b>January 1, 2004</b>
43	43	Iowa	1.91	January 1, 2004
44	41	Kansas	1.81	January 1, 2004
45	37	Massachusetts	1.70	September 1, 2003
46	44	Utah	1.63	December 1, 2003
47	49	Virginia	1.57	April 1, 2003
48	47	Arkansas	1.57	July 1, 2001
49	46	Arizona	1.49	October 1, 2003
50	50	Indiana	1.24	January 1, 2004
51	51	North Dakota	1.06	July 1, 2003

Based on updated information, the 2002 ranking has been revised since it was originally published.

Although some states may appear to have the same index rate, the ranking is based on calculations prior to rounding to two decimal places. The index rates reflect appropriate adjustments for the characteristics of each individual state's residual market. Rates vary by classification and insurer in each state. Actual cost to an employer can be adjusted by the employer's experience rating, premium discount, retrospective rating, and dividends.

Employers can reduce their workers' compensation rates through accident prevention, safety training, and by helping injured workers return to work.

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