

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairman Susan Wagle at 8:30 a.m. on January 13, 2011, in Room 548-S of the Capitol.

All members were present.

Committee staff present:

Ms. Margaret Cianciarulo, Committee Assistant
Mr. Reed Holwegner, Kansas Legislative Research Department
Ms. Dorothy Noblit, Kansas Legislative Research Department
Mr. Ken Wilke, Kansas Office of the Revisor of Statutes

Conferees appearing before the Committee:

Ms. Kathie Sparks, Principal Analyst, Kansas Legislative Research Department

Others attending:

See attached list.

Introductions

Upon opening the meeting, Chairperson Wagle welcomed back the returning members of the Committee and Staff, introduced new people, and reviewed the Committee and conferee rules that would govern their Committee.

Introduction of bills

The Chair then called on Mr. Nick Jordan, Secretary, Department of Commerce who requested the Committee introduce two conceptual pieces of legislation, the first is the restructuring of Kansas Inc. and second is the restructuring of KTECH. A motion was made by Senator Lynn the Committee introduce the proposed legislation. It was seconded by Senator Olson and the motion carried.

Overview of the Kansas Unemployment Fund

Next the Chair recognized Ms. Kathie Sparks, Principal Analyst, Kansas Legislative Research Department who stated she would be offering testimony of what happened when the economy experienced a massive downturn, what the projections were and what actually happened last year, and the urgent need for legislation..

She offered a brief history of the Kansas Unemployment Fund, explaining the Federal Unemployment Tax Act (FUTA), the State Unemployment Act (SUTA), negative balance employers and ineligible employers.

The Chair recognized Senator Schodorf who asked about not-for-profit organizations and government entities? (Both are also graded the same way, however they are allowed to pay-as-you-go.)

Regarding the downturn in the economy, in 2009 and 2010 Ms. Sparks stated Kansas paid out approximately \$766.8M in regular program benefits and from 1-10 through 9-10, Kansas paid out approximately \$429.8M. After explaining the State Extended Benefits Program and the Unemployment Insurance Trust Fund, she stated at the beginning of 2009, the Trust Fund balance was \$566.6M, but by the week ending 1-2-10, the balance was \$65.2M at the time, the Department of Labor (DOL) believed it would exhaust the fund sometime in February, 2010. It did, and Kansas started borrowing daily from the U.S. Treasury, but only the amount needed to satisfy benefit payments for that day. As of October, 2010, 36 states have borrowed over \$40.0B in funding from the U.S. Treasury. Kansas has received \$88.2M in Title X11 loans. However, as of the eighth of this month, the Kansas balance is down to \$10.6M, and the next payment received will not be received until April.

The Chair asked Ms Sparks if after she has moved over to the Department of Labor, she could provide the Committee with where every state stands regarding federal advances on UI loans and how much they borrowed, so the Committee can compare them with Kansas.

Ms. Sparks went on to say, the Federal government picked up 100% of the extended benefits and forgave all interest for 2010. Also, interest on the State's loans did not start accruing until January 1, 2011. She

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then referred the Committee to page 3, offering three charts the Department created during January of 2010 based on the estimated borrowing. They revised the charts in October, 2010.

A.) Chart 1 is what the DOL has been told what the interest payments were going to be. However, the January, 2010 projection of \$42M for 2011 is wrong, because Kansas did not have to borrow what they thought they were going to.

B.) Chart 3 shows the estimate they made in October which indicates \$6.2M. Chart 2 gives you a history of the U.S. Gov. interest rates. She said, this is where the legislation comes in because on September 15, 2011, the federal government will send the DOL a "bill" and this interest payment will be due in full by September 30, 2011.

She then offered three potential consequences if the interest was not paid by the required deadline including:

A.) Kansas employers may lose the offset credit against FUTA of 5.4 percent, therefore paying up to 6.2 percent against the first \$7,000 of wages paid per employee,

B. Kansas may lose future borrowing privileges, and

C, Kansas would also lose all grants for costs of administration until the interest due is paid.

Federal law states you cannot use the current contributions to pay the interest payment, you have to set up a separate mechanism to pay the interest. Kansas has no such mechanism in statute. So, legislation is needed soon and any change in statute with regard to employer's rates need to occur by the first week in March so the Department will have the time needed to implement the new schedules. (To be able to send the letters out to the employers with their new calculations and these are due in April.)

The Chair recognized Senator Masterson who asked:

1.How much do we anticipate to borrow this year until our quarterly payment? (Up to \$185M and in looking at the third chart on page 3, it shows only three years because what they think will happen some time next year is that we will be in the positive status again and we can use part of those funds from the regular contributions to pay down the loan.)

2. Are we building up debt and how long do we anticipate this? (The next 12 months.)

The Chair recognized Senator Lynn who stated that last year the Committee attempted to lower the amount of weekly benefits since Kansas' rates in the top three, asking is this still the case? (There were only discussions)

Regarding the principal, Ms. Sparks stated that federal law says you do not have to make a payment on the principal until you have been through two Januaries and since Kansas did not borrow until February of last year, this month is our first January, with 2012 being out second, buying us a little extra time. However, you can use the fund to pay the basic principal and they do have mechanisms. If you have not paid your loan back by November 9, of the second year, they will enact a reduction in the credit. (Remember you get the credit of 5.4% against the 6.2% and continue reducing it by .3% with the second year reduced by .6, then .9 until you have no credit. However, after the second year if they choose, they can add 2.7% surcharge on top of that to get the money back faster.) She said three states have already received their letters, Michigan, Indiana, and South Carolina. The Chair recognized Senator Olson who asked how these states are paying back their loans? (Through FUTA, they are increasing their FUTA taxes on to their employers.) Ms. Sparks also covered the 2010 enactment of **HB2676**.

In conclusion regarding the future of the Kansas Unemployment Insurance Program, she said Kansas needs a statute change for repaying the interest due September 30, 2011 and the Legislature may wish to discuss options for the repayment of the principal on the loans. Keeping in mind, one-tenth of a percent against the FUTA credit is \$7.7M but they only due it in three-tenths of a percent increments (or \$23M)

A copy of her testimony is (Attachment 1) attached and incorporated into the Minutes as referenced.

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Adjournment

The meeting was adjourned at 9:30 a.m with the next meeting scheduled for January 19, 2011.