

Approved: April 6, 2010
Date

MINUTES OF THE SENATE BUSINESS AND LABOR COMMITTEE

The meeting was called to order by Chairman Susan Wagle at 8:30 a.m. on February 11, 2010, in Room 548-S of the Capitol.

All members were present except
Senator Dick Kelsey

Committee staff present:

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

Conferees appearing before the Committee:

Ms. Rachelle Columbo, Senior Director of Legislative Affairs,
The Kansas Chamber
Mr. Jim Garner, Secretary, Kansas Department of Labor
Ms. Natalie Bright, Legislative Counsel,
Wichita Independent Business Association
Mr. Phillip Hayes, Vice President, HR Services & Operations,
The Arnold Group, Wichita
Mr. Bill Goodlatte, Senior Vice President, Human Resources,
The LDF Companies
Mr. Andy Sanchez, Executive Director, Kansas AFL-CIO

Others attending:

See attached list

Hearing on SB529 - an act concerning the employment security law; pertaining to the maximum weekly benefit

Upon calling the meeting together, Chairperson Wagle announced that the Committee would continue learning more about the unemployment system so that they can work toward a bill or several bills next week. She said she noticed how well the first bill went over she put in to resolve the issue, the one that raised the wage base to \$9K next year and \$10K the following year and she noticed how good penalty and interest were going over and then for the first time she had to tell the Committee about a bill that is being offered on the other side of the Capitol.

She went on to say that they do have a bill they are going to hear, that was introduced earlier in Committee that froze benefits for three years, SB529 and called on the first proponent conferee who had to leave after giving testimony, Ms. Rachelle Columbo, Director of Legislative Affairs, The Kansas Chamber who stated that:

1. The bill changes the calculation for maximum weekly benefit for calendar years 2010, 2011, and 2012 by utilizing the lowest amount of either the 2009 rate or 60% of the average weekly wage.
2. Three-quarters of the Kansas employers have paid more taxes into the fund than they have drawn down and yet 56 percent of them will pay the maximum tax rate under current law.
3. Kansas employers have kept our fund healthier than the twenty-five states that bankrupted before us and yet have been burdened with the fifth largest unemployment tax increase in the country.
4. The Kansas business community needs relief in order to maintain current employment which will allow our economy to stabilize and freezing benefit levels while employers are paying increased rates will speed our fund's return to solvency.

Ms. Columbo also offered a little bit of background on the difference between the ESAC recommendations and this particular piece stating, when ESAC began meeting, the freeze on benefits was originally part of the



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discussion and the subcommittee was charged to look at ways to bring the fund back to solvency as soon as possible. Their focus was to look at the fund so with all of the research brought to them, the projection was on the fund not always on the impact back on the business community which is contributing to the fund.

She went on to say, there were many proposals, with the surcharge originally included in the first recommendation which was to be levied for a time commiserate with a benefit reduction. However she stated, when we began to understand the surcharge more and that it would go to avoid the FUTA tax reduction, the suggestion was maybe they ought to only level that surcharge when the interest begins to accrue so it gives us time to be a little more responsive if the federal government does extend the no interest rate. So the surcharge would equal the interest rate and not be levied until that time. So that surcharge came out of that original piece and yet their first recommendation that had those three pieces wasn't adjusted, to more carefully balance or equalize the benefit and contribution aspect of the fund. A copy of her testimony is (Attachment 1) attached and incorporated into the Minutes as referenced.

The Chair said before she called on the next proponent conferee for **SB529**, she first wanted to call on Mr Jim Garner, Secretary, Department of Labor, who would be speaking on the impact of borrowing the money and how to pay it back, interest rates.

In response to the request from the Chair, Secretary Garner stated his handout is a memo which provides some general information about the payment of interest, interest that's required on the payment on the advances, and also what the impact on the FUTA reductions are in future years. He said KDOL is still learning about the FUTA's impacts, communicating with their federal partners in the regional office in Chicago, who also are learning, as it has been since the early 1980's where it has been effectuated in the past. This is going to be the state of Michigan's first year of having a FUTA credit reduction, so they are leading the way for all of the other states.

Regarding the repayment of interest:

1. The regular Unemployment Insurance contributions, the regular taxes that are collected each year go into the Unemployment Tax Fund (UTF) and cannot be used to pay interest. This is a federal requirement. There has to be an alternative source separate and part of the regular UI taxes.

2. Regarding the interest assessments, he said there are none being accrued right now because we have not begun to borrow and we will not be accruing interest through the rest of this calendar year. This is part of the Recovery Act bill, an act of Congress, but interest will be assessed after January 1, 2011.

3. Under current law, the first interest payment will be due on September 30, 2011 unless Congress extends the waiver.

4. Secretary Garner offered a spread of estimated interest that will be accruing in each of the years until the debt is paid off. (Information on the FUTA reduction (effects of borrowing federal funds on FUTA credit)

1. Basically, there is no time requirement for paying back the interest, however, there is the mechanism that after two Januaries go by that there is a debt then they are going to start the reduction of FUTA credits each year until the principal is paid in full.

2. Regarding FUTA, there is a federal tax rate of 6.2 percent on employers, however, states that have an approved UI system like Kansas, get a credit of 5.4 percent. So the effective rate for Kansas employers is .8 percent and federal taxes on the first \$7K of payroll.

3. Regarding the credit reduction, as stated above, after two Januaries with debt accumulated and owed to the federal treasury, then in that year they start reducing the 5.4 percent reduction in the federal tax at a rate

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of 3 percent each year. He offered a chart to show those reductions. The second chart shows the first expected FUTA reduction based on projects they have computed for Kansas and will be due to the IRS by January 31, in 2013 and each year following.

Lastly, he stated there was a question at yesterday's meeting when he was talking about how KDOL was projecting how they were going to spend more money in benefits in 2010 than in 2009 and there were questions including, how is this possible? Answer: It is based on what KDOL is projecting the unemployment is going to be for 2010. He offered a chart showing this is all history what the unemployment rate is in the nation the top line being national unemployment rate and the bottom line is the Kansas unemployment rate. He referred to the right end of the chart noting the preliminary numbers for 2009, the national annual unemployment is 9.3 percent for Kansas the number is 6.7 percent. Then in 2010 the national forecasters are projecting the national unemployment rate is going up to 10.1 percent, our range in Kansas is somewhere between 6.8 and 7.8 percent. So this is why they are forecasting there will be more payout in unemployment because of these projections.

A copy of his handout and chart are (Attachment 2) attached and incorporated into the Minutes as referenced.

The Chair then recognized Ms. Natalie Bright, Legislative Counsel, Wichita Independent Business Association (WIBA) who stated the immediate concern for their members is assistance with managing the cost of their 2010 assessments and SB474 only increases the cost of doing business in Kansas at a time when Kansas employers can afford it least. She went on to say WIBA supports **SB486** and **SB529** as:

1. With the 90-day "grace period" on quarterly payments in **SB486** will allow many employers an opportunity to better manage their cash flow in the wake of their significant unemployment insurance tax increase.

2. **SB529** addresses another very important component of unemployment compensation equation, benefits which they fear if allowed to increase at a time when the fund is being depleted, little can be done to stabilize the fund equitably. She went on to say that recent discussions with members who do business outside of Kansas have eluded that Kansas has increasingly become more liberal in its award for benefits including the waiting week benefit, the trailing spouse benefit and the indexing of weekly benefits. Their members ask there be greater legislative oversight on what benefits are actually being paid, ask that KDOL following existing benefit laws, and that the Kansas Legislature remain the body charged with setting benefit policy. She asked that they consider the two examples she offered where the KDOL has admitted to having paid benefits they were not legally empowered to do so.

1. 2006 Post Audit Study, Executive Summary found Kansas to have the highest overpayment error rate of any state in the nation and their overpayment error rate had increased dramatically since 1997.

2. During hearings last session on **HB2347**, KDOL testified in support of a measure to codify the practice of allowing traditional part-time workers to claim part-time unemployment insurance (2347 Legislative Research Bill Summary).

A copy of her testimony, the 2006 Post Audit Study Executive Summary, and the 2347 Legislative Research Bill Summary are (Attachment 3) attached and incorporated into the Minutes as referenced.

The next opponent of the bill called upon was Mr. Phillip Hayes, Vice President, HR Services & Operations, The Arnold Group who stated a fix boils down to deciding how much to increase the amount employers pay into the fund and how much to limit benefits paid to workers. He went on to say:

1. They opposed SB474 as it will increase unemployment insurance taxes for employers beyond what they are already faced with as these economic times continue.

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2. They do support **SB486** as it would provide relief to many Kansas employers, however, The Arnold Group would not benefit significantly as their quarterly FUTA payments are fairly consistent each quarter based on the nature of their business.

3. The also support **SB529** and feels it is a good starting point but need to look at more aggressive approaches as well such as maximum weekly benefit amount reduction, or a scheduled reduction based on number of weeks receiving benefits. For example, provide full benefit amounts for the first 13 weeks, thereafter continue to diminish the amount to provide an incentive for claimants to accept job opportunities.

Lastly, he offered the outcome of a KS SHRM Survey on Kansas UI - 2010 Reduction and shared a prioritized list of recommendation for:

1. Immediate relief, such as prevent participants in the KS Work Share Program from receiving the \$25 additional Federal emergency benefit
2. Introduce new measures to increase accountability in the system such as creating a Precedence Manual to KS Adjudications to apply the same standards across the state.
3. System changes - steps to preventing insolvency in the KS Trust Fund in the future such as identify predictive indices to allow the state to better forecast the solvency of the Trust Fund.

A copy of his testimony is (Attachment 4) attached and incorporated into the Minutes as referenced.

The next opponent to testify was Mr. Bill Goodlatte, Senior Vice President, Human Resources, The LDF Companies who stated their Kansas FUTA tax rate had increased by over 500 percent, an additional \$132,628 per year. He said they had never had to payoff but sometimes have had to fire employees for cause or poor performance and those employees always apply for and receive unemployment benefits, even though they contest and appeal every case. He offered a log of sorts (Kansas Unemployment Issues) of his efforts to contact the KDOL's Call center to try and resolve an issue. Lastly he said, based on their experience, Wendy's Restaurants, they believe the rates, benefit levels, granting of benefits, and administration all need to be revised. A copy of his testimony and the Kansas Unemployment Issue are (Attachment 5) attached and incorporated into the Minutes as referenced.

The Chair also said there were two written only proponent testimonies before the Committee from:

1. Ms. Ashley Sherard, Vice President, Lenexa Chamber of Commerce
2. Ms. Jennifer Bruning, Vice President of Government Affairs with the Overland Park Chamber of Commerce.

A copy of the above written only testimonies are (Attachment 6) attached and incorporated into the Minutes as referenced.

The only opponent to testify was Mr. Andy Sanchez, Executive Secretary-Treasurer, Kansas AFL-CIO who stated he also serves on the ESAC. He said the union believes it is exactly the wrong time to withhold a "liferaft" to those in need and a three year freeze is far too long as it would relinquish the union's ability to monitor changes in the economy and adjust benefits.. However, the ESAC recommendation does include a similar proposal for 2 years which labor does support . A copy of his testimony is (Attachment 7) attached and incorporated into the Minutes as referenced.

Written only testimony was offered by Secretary Garner. A copy is (Attachment 8) attached and iincorporated into the Minutes as referenced.

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Questions for Secretary Garner came from Senators Brownlee and Kelsey including:

1. Are there any revoke funds left at the federal level? Answer: The last distribution of revoke funds was in 2002 and he does not anticipate in the near future any further distribution because all of that money is going to the other 35 states that are borrowing it.

2. When the UI claims are challenged, they seem to always fall to the employee, but you had referenced a post audit some time in the last several years indicated KDOL's numbers are really half and half, and when it goes to the next round, most of the decisions by the ALJ's think at least 75 percent is overcharged, so does your department needs a review of those that are challenged? Answer: He said, that information is the

information he provided the Committee and every year KDOL has to compile a report of the decisions that were made by the hearing officers, how many ruled in favor of claimants and how many in favor of employers, and to clarify, of those that are appealed, it is 75 percent ruled in favor employers and 25 percent to claimants.

3. At the appeals level, how many are employers and how many are claimants? Answer: He will find out. As there was no further discussion or questions, the Chair announced that Secretary Garner was going to introduce a bill with the ESAC recommendations and Senator Emler is introducing a bill today that deals with the benefit side, repeals the waiting week for 2 years, repeals the trailing spouse for 2-years, and also repeals the bill that they passed last year that allows someone to go to training and is paid unemployment part-time.

Adjournment

The Chair adjourned the meeting. The time was 9:30 a.m. The next meeting is scheduled for February 16, 2010.

BUSINESS AND LABOR COMMITTEE GUEST LIST

DATE: 2-11-10

NAME	REPRESENTING
Kelli Kirkwood	KLA
Ashley Shevard	Lenexa Chamber
Rachelle Colombo	Ks Chamber
Rae Seebor	KGFA
Eric Stafford	AGIC of Kansas
Lynnda Frederick	Ks. SHRM
Lynne Vandivort	Ks SHRM
Jim Maher	Ks SHRM
Greg Mc Cullough	Ks SHRM
Christine Burger	Ks SHRM
Allison Weigel	Ks SHRM
Andy Sanchez	Ks AFL-CIO
Tracy Riffel	Ks SHRM
Matt Casey	GBA
Criss Mayfield	Ks SHRM
SEAN MILLER	CAPROL STRATEGIES
Mike Murray	Ks Food Dealers
Berend Koops	Hein Law Firm

27 in
attendance
+ Committee

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Legislative Testimony

SB 529

February 10, 2010

Senate Business and Labor

Rachelle Colombo, Senior Director of Legislative Affairs, The Kansas Chamber

Madame Chair and members of the committee, thank you for allowing me to provide testimony on behalf of the Kansas Chamber in support of SB 529.

SB 529 changes the calculation for maximum weekly benefit for calendar years 2010, 2011 and 2012 by utilizing the lowest amount of either the 2009 rate or 60% of the average weekly wage,

Fully three-quarters of Kansas employers have paid more taxes into the fund than they have drawn down and yet fifty-six percent of them will pay the maximum tax rate under current law. Simply put, their best efforts to maintain employment and years of paying in to the fund were eclipsed by the massive draw down of benefits in 2009.

Kansas employers have kept our fund healthier than the twenty five states that bankrupted before us and yet have been burdened with the fifth largest unemployment tax increase in the country. Returning our fund to solvency is paramount and will be even more difficult if employers are forced to lay-off employees or implement hiring freezes to pay their unemployment tax bills.

The Kansas business community needs relief in order to maintain current employment which will allow our economy to stabilize. Freezing benefit levels while employers are paying increased rates will speed our fund's return to solvency.

Thank you for the opportunity to provide these comments.

The Kansas Chamber, with headquarters in Topeka, is the leading statewide pro-business advocacy group moving Kansas towards becoming the best state in America to do business. The Chamber represents small, medium and large employers all across Kansas.



Senate Business & Labor Committee
Date: February 11, 2010
Attachment 1



DEPARTMENT OF LABOR

Mark Parkinson, Governor
Jim Garner, Secretary

www.dol.ks.gov

Information: Repayment of Interest

- The state's Unemployment Trust Fund (UTF) contributions collected cannot be used to pay interest on advances. Interest Payments must be paid from an alternative source.
- Interest on advances will not begin to be assessed until January 1, 2011. KDOL will receive a "bill" from the Treasury by September 15th of the year in which interest is due on Trust Fund Advances. Payment for the entire amount of interest would be due by September 30th of the same calendar year.
- No interest is due on advances made January 1st through September 30th if repaid in full prior to October 1st in the same calendar year provided no additional advances are obtained before the end of the calendar year.
- Employers will lose all offset credits (5.4%) for any year in which all interest due under law is not paid by the date on which interest is required to be paid. The state would also lose all grants for costs of administration until interest due has been paid.
- Interest due per year according to Baseline Scenario. Baseline model assumed no changes in current UI statute.

2009	
2010	
2011	\$42,006,035
2012	\$55,670,701
2013	\$55,194,690
2014	\$48,153,936
2015	\$38,849,931
2016	\$23,823,034
2017	\$12,822,463
2018	
2019	



DEPARTMENT OF LABOR

Mark Parkinson, Governor
Jim Garner, Secretary

www.dol.ks.gov

Information: Effects of Borrowing Federal Funds on FUTA Credit

Borrowing and Repayment of Principal:

- Transfer of funds to the state's Unemployment Trust Fund (UTF) will be made on a daily basis, as needed to meet the requirements of benefit payments for the day. The transfer of funds will be equal to the benefit payments due minus tax deposits made for the day.
- The Governor or his designate may request at any time that funds be transferred from the state's UTF to the Federal Unemployment Account (FUA) in repayment of all advances.
- Repayment of advances can come from various funding sources such as reduced FUTA credits, UTF contributions, state general funds, surcharges or additional solvency taxes.
- Repayment of advances from UTF shall be applied on a Last Made/First Repaid basis. Any other repayment of advances, such as reduced FUTA credits will be applied on a First Made/First Repaid basis.
- There are no time requirements for payment of principal other than the enforcement of the reduced FUTA credits. Reduction of FUTA credits would begin to be applied the second consecutive January 1st that the trust fund is insolvent.

Federal Unemployment Tax Act (FUTA) Credit:

- FUTA currently provides that the tax rate is 6.2 percent. Wages subject to the FUTA are currently the first \$7,000 paid to an employee in a calendar year. Thus, the maximum FUTA tax an employer would owe for an employee is \$434 ($\$7,000 \times .062$).
- For states which have approved Unemployment Insurance programs, employers in those states get a credit of up to 5.4%. **Thus the effective FUTA tax rate is 0.8 percent or \$56 ($\$7000 \times .008$).**
- The total credits available to employers are capped at the highest rate in the tax schedule based on experience (up to 5.4 percent). If, for example, the highest state tax rate was 4 percent, the effective FUTA tax rate for employers would be 2.2 percent rather than 0.8 percent.

FUTA Credit Reduction Schedule:

- FUTA Credit Reduction: Starting with the second year after the initial loan, if a State has a loan outstanding on January 1, and has not repaid completely by November 10, the State's employers are subject to a FUTA offset credit reduction to repay the loan.
- Receipts from the FUTA credit reduction are credited against the loan balance of the state. The FUTA reduction schedule is as follows:

FUTA Reduction Schedule			
<u>Year</u>	<u>Basic Reduction</u>	<u>Additional Reduction</u>	<u>FUTA Rate</u>
1	0.00%	0.00%	0.80%
2	0.3	0	1.1
3	0.6	2.7 Add-on	1.4 or more
4	0.9	2.7 Add-on	1.7 or more
5	1.2	BCR Add-on	2.0 or more
6	1.5	BCR Add-on	2.3 or more

- The additional reductions can be waived and the progressively increasing basic reduction can be capped if states can meet certain requirements.
- Based on projections we have computed for Kansas, the first expected FUTA reduction will be in 2012. Payments for the 2012 FUTA credit reductions will be due to IRS by January 31st 2013. Each year thereafter, FUTA reduction payments will be due January 31st of the next calendar year.

Projected FUTA Credit Reduction for Kansas		
<u>Year</u>	<u>FUTA Reduction</u>	<u>Baseline Model*</u>
2010	0%	\$0
2011	0%	\$0
2012	0.30%	\$48,662,835
2013	0.60%	\$99,444,342
2014	0.90%	\$152,559,711
2015	1.20%	\$207,798,360
2016	1.50%	\$263,065,260
2017	1.80%	\$319,348,728
2018	0%	\$0
Total		\$1,090,879,236

* Baseline model assumed no changes in current UI statute.

Methodology

The forecast of data listed above was produced using the State Benefit Financing Model (BFM) developed by the U.S. Department of Labor. BFM was first developed in 1977. It has since been modified and expanded by the Division of Actuarial and Fiscal Services in the Office of Workforce Security of the U.S. Department of Labor.

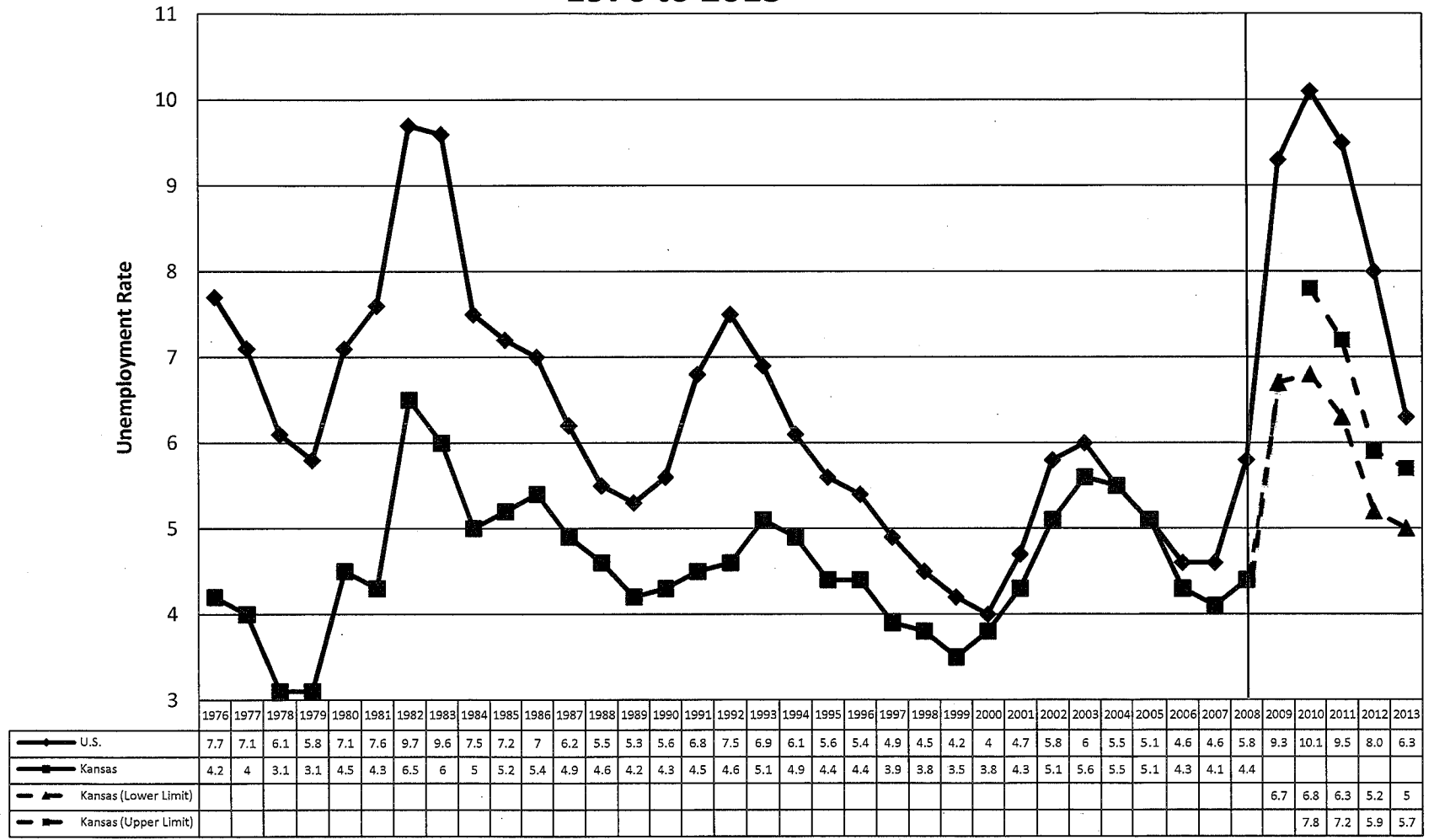
All of the variables are forecasted by relying on their historical pattern by itself or with other variables. The majority of the relationships established between variables are linear regressions which are run within the Model using the least square methodology. Since regression analysis is the basis for projecting a number of the variables, it must be remembered that this technique presupposes that relationships, which have existed in the past, will continue to exist in the future.

The insured unemployment rate was derived using a linear regression technique of U.S. total unemployment rate and Kansas insured unemployment rate. The projections of the U.S. unemployment rate were taken from the Congressional Budget Office (CBO) economic forecast as of January 27, 2010. As such these projections are subject to change as the CBO revises its estimates. In selecting the best predicting variable and linear regression model, statistical diagnostics such as adjusted R² were used.

All projections from 2014 forward are based on constant average insured unemployment rate of 1.5%, long run annual average weekly wage growth rate of 3.8% and annual labor force growth of 0.6%. Please note that these projections are subject to revisions as national and statewide forecasts continue to be revised as new data becomes available. Some of the revisions could be substantial.

2.4

Unemployment Rate U.S. and Kansas 1976 to 2013*



Source: Congressional Budget Office, Bureau of Labor Statistics and Labor Market Information Services, Kansas Department of Labor

* Projected data from 2010 to 2013. 2009 data is preliminary.



Wichita Independent Business Association

THE VOICE OF INDEPENDENT BUSINESS

**Senate Committee on Business and Labor
Testimony regarding SB 474, SB 486 and SB 529
By Natalie Bright
February 11, 2010**

Chair Wagle and honorable committee members,

On behalf of the members of the Wichita Independent Business Association (WIBA), thank you for your consideration of the issues confronting Kansas employers and the current state of our unemployment system. You have learned over the last weeks that the issues at hand are both immediate and long-term. Priorities need to be set and systemic changes need to be implemented. Our members, like many other employers in the state, believe the solutions must come not only from increased taxes on employers, but also from a reformation of the current benefit structure in Kansas. Without both of these changes, the system will continue to be inequitable and over burdensome for employers.

The immediate concern for our members is assistance with managing the cost of their 2010 assessments. As such, WIBA opposes SB 474 because it only increases the cost of doing business in Kansas at a time when Kansas employers can afford it least. Raising the taxable wage base will increase costs for all employers, regardless of whether their employees are part-time or full-time. Instead of reducing their already insurmountable costs, SB 474 increases them. I recognize that the ESAC's has recommended this as a means to replenish the trust fund. But in today's economy and in light of all that employers are grappling with to stay in business, WIBA members cannot support SB 474.

However, WIBA supports SB 486 and SB 529 as we believe they are a step in the right direction. SB 486 affords employers the option of deferring up to 50% of a single quarter's payments during the 90 days following the due date without accruing additional penalties or interest during that time. This 90-day "grace period" on quarterly payments will allow many employers an opportunity to better manage their cash flow in the wake of their significant unemployment insurance tax increase.

SB 529, which changes the calculation for maximum weekly benefit for calendar years 2010, 2011 and 2012 by utilizing the lowest amount of either the 2009 rate or 60% of the average weekly wage, addresses another very important component of unemployment compensation equation –benefits. While the members of WIBA recognize this is a difficult time for unemployed Kansans, we fear if benefits are allowed to increase at a time when the fund is being depleted, little can be done to stabilize the fund equitably.

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316-267-8987 / 1-800-279-9422 / FAX 316-267-8964 / E-mail: info@wiba.org / Web Site: www.wiba.org

Senate Business & Labor Committee

Date: February 11, 2010

Attachment 3

This raises a major concern for our members and one that has not yet been discussed at length by either ESAC or the Kansas Legislature and that is what benefit reforms need to be considered?

Recent discussions with members who conduct business in other states have alluded that Kansas has increasingly become more liberal in its award for benefits. Such exceptions mentioned include the waiting week benefit, the trailing spouse benefit and the indexing of weekly benefits. While each of these have been approved by prior Kansas Legislatures, we believe at this time of trust fund bankruptcy it is time to re-evaluate the viability of these benefits.

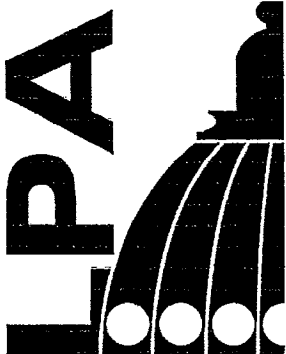
In addition, for years we have fielded complaints from employers that there has been an unauthorized liberalization of benefits paid and their belief that there is need for closer scrutiny of the benefits side of the equation. Now that the fund is in a state of bankruptcy and positive balanced employers have been hit with record high rate assessments, Kansas employers will not remain complacent for long. Consider the following two examples where the KDOL has admitted to having paid benefits they were not legally empowered to do so:

1. 2006 Post Audit Study (Executive Summary Attached) cited the U.S. Department of Labor found Kansas to have the **highest overpayment error rate of any state in the nation and that Kansas' overpayment error rate increased dramatically since 1997.** *Idol's response to the audit was that "it disagreed with some of the recommendations included in the report and that it reiterated its long-standing practice to pay (and not cut-off) benefits to unemployed workers who fail to register as required by law."*
2. During hearings last session on HB 2347, *Sect. Garner testified in support of a measure to codify the practice of allowing traditional part-time workers to claim part-time unemployment insurance (2374 (Legislative Research Bill Summary Attached) Again, this is an example of where the KDOL admitted it had a standing policy to pay claims not authorized by existing law.*

While our members are in no way insinuating the fund is bankrupt because benefits have been paid out more liberally than authorized by law, we do believe this is part of the equation that must be addressed. Our members ask there be greater legislative oversight on what benefits are actually being paid and demand that KDOL follow **existing** benefit laws and that the Kansas Legislature remain the body charged with setting benefit policy.

In conclusion, a 2009 fall survey of WIBA members indicated our members have laid off very few workers in this down economic times, which was not what was expected. Upon further inquiry it was reported members made cuts in every other area to avoid layoffs. Unfortunately, since the assessments were issued in late December, I have gotten less positive feedback. While most members expressed frustration that they were being assessed maximum increases despite no layoffs, all questioned their ability to absorb the cost and many indicated the increases equated to layoffs because they had no where else to cut.

Again, thank you for the opportunity to appear on this important issue.



PERFORMANCE AUDIT REPORT

Department of Labor: Reviewing
Error Rates for Unemployment Benefit Payments,
A K-GOAL Audit of the Department

Executive Summary *with Conclusions and Recommendations*

A Report to the Legislative Post Audit Committee
By the Legislative Division of Post Audit
State of Kansas
January 2007

Legislative Post Audit Committee

Legislative Division of Post Audit

THE LEGISLATIVE POST Audit Committee and its audit agency, the Legislative Division of Post Audit, are the audit arm of Kansas government. The programs and activities of State government now cost about \$11 billion a year. As legislators and administrators try increasingly to allocate tax dollars effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by Legislative Post Audit helps provide that information.

We conduct our audit work in accordance with applicable government auditing standards set forth by the U.S. Government Accountability Office. These standards pertain to the auditor's professional qualifications, the quality of the audit work, and the characteristics of professional and meaningful reports. The standards also have been endorsed by the American Institute of Certified Public Accountants and adopted by the Legislative Post Audit Committee.

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Audits are performed at the direction of the Legislative Post Audit Committee. Legislators

or committees should make their requests for performance audits through the Chairman or any other member of the Committee. Copies of all completed performance audits are available from the Division's office.

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Representative Tom Burroughs
Representative John Grange
Representative Virgil Peck
Representative Tom Sawyer

Senator Nick Jordan, Vice-Chair
Senator Les Donovan
Senator Anthony Hensley
Senator Derek Schmidt
Senator Chris Steineger

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LEGISLATURE OF KANSAS

LEGISLATIVE DIVISION OF POST AUDIT

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January 26, 2007

To: Members of the Kansas Legislature

This executive summary contains the findings and conclusions, together with a summary of our recommendations and the agency responses, from our completed performance audit, *Department of Labor: Reviewing Error Rates for Unemployment Benefit Payments, a K-GOAL* audit of the Department.

The report contains an appendix showing overpayment error rates for all 50 states for calendar year 2005.

This report includes several recommendations for reducing the number of overpayment errors caused by unemployed workers failing to register for job services, including revoking administrative regulation 50-3-2 and establishing and enforcing a registration deadline. We also recommended that the Department take several actions to make the current process for registering for job services easier for unemployed workers. We would be happy to discuss these recommendations or any other items in the report with you at your convenience.

If you would like a copy of the full audit report, please call our office and we will send you one right away.

Barbara J. Hinton
Legislative Post Auditor

EXECUTIVE SUMMARY

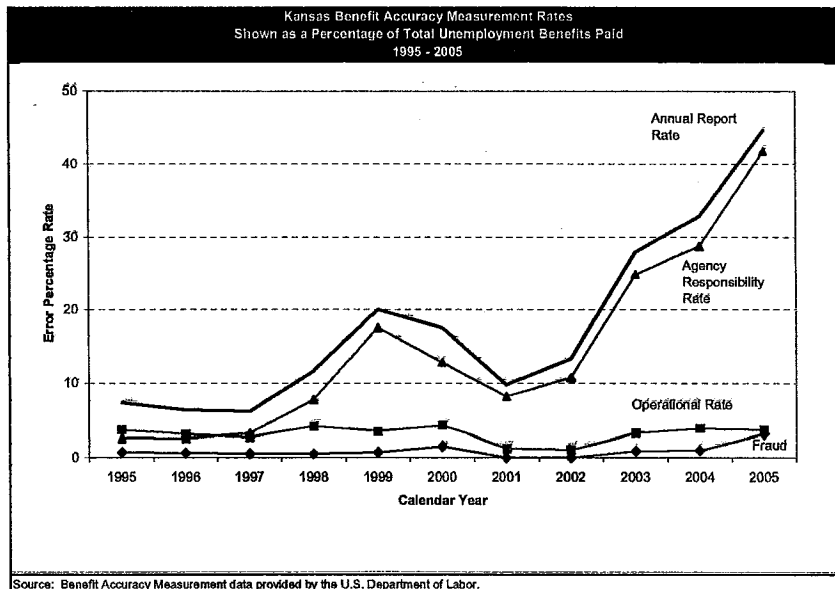
LEGISLATIVE DIVISION OF POST AUDIT

Overview of the Unemployment Insurance Program

The purpose of the unemployment insurance program is to replace page 3
a portion of an unemployed worker's earnings. Congress established the nation's unemployment insurance program in 1935. The Department of Labor administers Kansas' unemployment insurance program.

To collect benefits, an unemployed worker must have become unemployed through no fault of his or her own and must not have been fired or quit voluntarily. An unemployed worker must apply for benefits weekly. Until November 2006, about two-thirds of all unemployed workers receiving benefits were required to register for job services. (By regulation, the Department had exempted those workers who were temporarily or partially unemployed, or who were affiliated with a union.) Since November 2006, a new administrative regulation requires a much smaller number of unemployed workers receiving benefits to register.

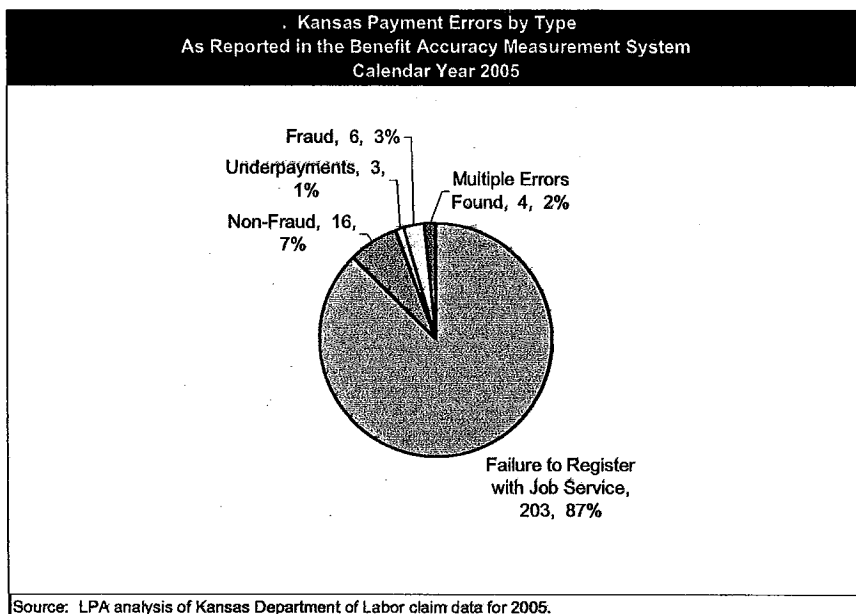
According to reports published by the U.S. Department page 5
of Labor, Kansas has the highest overpayment error rate of any state in the nation. The U.S. Department of Labor conducts an annual study that's designed to assess the accuracy of unemployment benefit payments. The federal agency analyzes payment data to produce four different measures for overpayments. The results are reported in what's called the Benefit Accuracy Measurement report. These reports show that Kansas overpayment error rate has increased dramatically since 1997.



Federal data show that Kansas has had the highest comprehensive overpayment rate of any state in the nation for 2003, 2004, and 2005.

Question 1: What Factors Have Contributed to the High Overpayment Rate for Kansas Unemployment Benefits Reported by the U.S. Department of Labor?

Most of the error rate for unemployment benefit payments is page 9
 caused by unemployed workers failing to register for job services.
In 2005, investigators reviewed a total of 486 benefit payments, 232 of which were determined to have errors. Of those, 203—or about 87% of the payments found to be in error—occurred because the claimant hadn't met the statutory requirement to register for job services.



Historically, the Department of Labor hasn't enforced the page 10
 statutory requirement to register for job services. *Kansas' unemployed workers have been required by State law to register for job services in order to receive unemployment benefits since 1937. However, it's been the Department's practice since at least 1980 not to enforce the law. Department officials cited the following reasons why:*

- The Department's philosophy has been to get the benefit payments out to unemployed workers without requiring them to register for job services because they think registering is only one of many avenues an unemployed worker could take to find a new job. For example, many unemployed workers use private employment agencies to help them find a job. Department officials told us they think the financial assistance is vitally necessary to help unemployed people in difficult times.
- There's no need for people in high-demand occupations, such as information technology and health care, to register because they should be able to find a job quickly.

The Department only cuts off unemployment benefits for "high page 10
 need" unemployed workers who don't keep scheduled appointments with a workforce development center. *The following information for*

the quarter ended June 30, 2006, helps put the number of unemployed workers affected in perspective. During that quarter:

- 9,251 unemployed workers were required by State law and administrative regulation to register for job services
- the Department identified 1,924 of these unemployed workers as high need and "likely to exhaust" their unemployment benefits before finding another job
- the Department scheduled 729 of these 1,924 people for an appointment with a workforce development center—leaving 1,200 "high-need" people to seek assistance on their own
- 687 people kept the appointment and 11 were excused; benefits for the remaining 31 were terminated because they did not keep their appointment

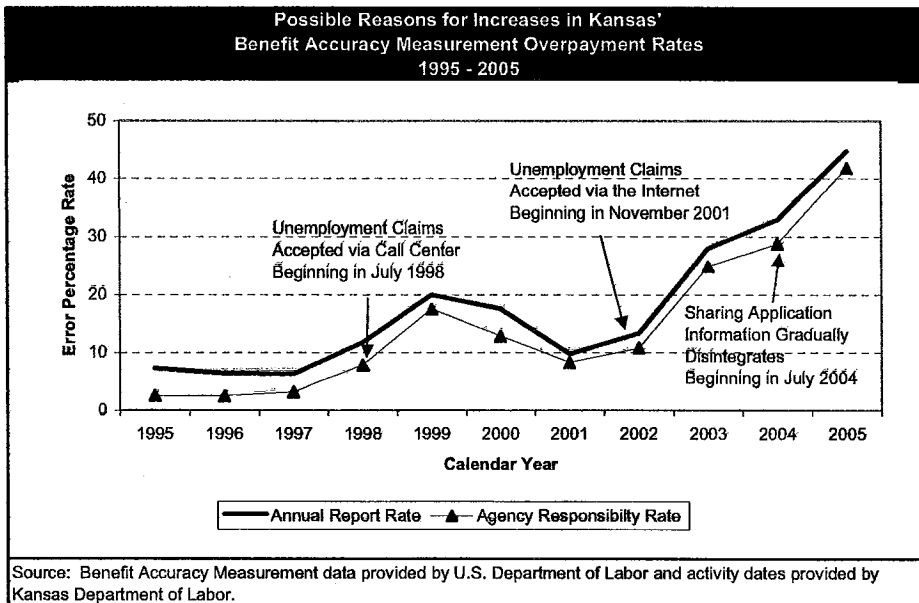
The State doesn't have a strong incentive to bring its high overpayment error rate down because the federal government doesn't levy any financial penalties. Federal law doesn't allow U.S. Department of Labor officials to assess penalties or fines against states that have higher-than-average error rates.

..... page 11

Changes to the process of applying for benefits also appear to be contributing to unemployed workers' failure to register for job services. As shown in the figure below, a significant upward trend in the overpayment error rates began in about 1998. That upward trend coincides with two changes in the process for applying for unemployment benefits.

..... page 12

- Beginning in July 1998, the Department of Labor established several call centers in Kansas, which enabled unemployed workers to apply for unemployment benefits by telephone.
- Starting in November 2001, the Department began accepting unemployment claims on-line over the Internet.



Through interviews of Department staff and benefit applicants, and reviews of computerized forms applicants have to complete, we identified several factors that may be contributing to the problem of unemployed workers failing to register for job services:

- The process of applying for unemployment benefits and registering for job services may be confusing to some people, making them think they've registered when they haven't fully completed the process.
- The registration process is time consuming and duplicative, which could cause some people to abandon the registration process before completing it.
- Neither State law nor administrative regulations specify a deadline for how soon someone must register for job services.

Question 2: What Actions Have Kansas and Other States Taken To Reduce Overpayment Rates, and Have Those Steps Been Effective?

To help reduce Kansas' high unemployment benefit overpayment rate, the Department of Labor adopted a new regulation that will eliminate the registration requirement for most unemployed workers. Under K.A.R. 50-3-2a, which went into effect November 3, 2006, only the following unemployed workers are now required to register for job services: page 16

- Unemployed workers who the Department has determined to be most at-risk of having their benefits expire before they find another job, and for whom the Department has set up an appointment with a workforce development center.

If these workers don't keep their scheduled appointments—and don't have a good excuse—the Department will follow its current practice of cutting off their benefits. Under the old regulation, 9,251 unemployed workers were required to register for job services for the quarter ended June 30, 2006. If this regulation had been in effect during that period, only 729 of these workers would have been required to register. That's a drop of about 92%.

The Department considered updating its computer system so that unemployed workers applying for benefits would be registered automatically with the Kansas Job Link program, but later dropped that idea. Department officials told us they decided to drop this aspect of the computer modernization project after the new administrative regulation was adopted. They indicated the new regulation would address the problem without the State having to incur additional costs of building the automatic registration process into the new computer system. page 17

The solution Kansas is pursuing is different from the approaches several states have pursued. The primary incentive other states use to get claimants to register is to cut off their benefits if they page 18

In its response, the Department indicated it disagreed with some of the recommendations included in this report. The Department reiterated its long-standing practice to pay (and not cut-off) benefits to unemployed workers who fail to register as required by law. The Department also reiterated its point that the new regulation was adopted to ensure the law was in sync with the Department's long-established practice. Finally, the Department highlighted some of its efforts to identify fraudulent overpayments.

APPENDIX A: Scope Statement page 23
APPENDIX B: Benefit Accuracy Measurement Overpayment Rate Report Calendar Year 2005 page 25
APPENDIX C: Agency Response page 28

This audit was conducted by Joe Lawhon, Molly Coplen, and Melissa Doeblin. Leo Hafner was the audit manager. If you need any additional information about the audit's findings, please contact Joe at the Division's offices. Our address is: Legislative Division of Post Audit, 800 SW Jackson Street, Suite 1200, Topeka, Kansas 66612. You also may call us at (785) 296-3792, or contact us via the Internet at LPA@lpa.state.ks.us.

- Allow the Board to charge increased fees. These fees may be assessed against the parties;
- Increase the administrative fine cap from \$2,000 to \$5,000;
- Permit CPAs to practice in this state and the practice privilege of other states; and
- Provide cleanup, clarifying, and technical amendments.

Unemployment Insurance Compensation

HB 2374 draws down an additional \$69.0 million dollars in American Recovery and Reinvestment Act (ARRA) funds for the Kansas Employment Security Trust Fund through the modification of three provisions of Kansas Unemployment Insurance Compensation law.

The first modification will allow unemployment insurance compensation applicants to use an alternative wage base period when calculating benefits. Under current law, claimants must use the first four of the last five completed calendar quarters, ignoring the last completed quarter or lag quarter, in determining benefits. The modified provision will allow claimants to use the last four completed quarters including the most recent quarter, eliminating the lag quarter provision. Claimants can calculate benefits using either methodology and choose the option which provides the greater benefit. The original wage base period calculation was a holdover from when unemployment compensation applications were processed by hand; modern techniques eliminate the need for delays and lag quarters according to the Department of Labor. This modification allows the State to access the first \$23.0 million in ARRA funding for the Trust Fund.

The second modification codifies the practice of allowing traditional part-time workers to claim part-time unemployment insurance compensation benefits, assuming they would be otherwise qualified to receive benefits. The modification has no fiscal impact but moves current Department of Labor practice into statute.

The third modification provides an additional 26 weeks of unemployment insurance coverage for persons who are otherwise qualified to receive unemployment compensation and are enrolled in a state-approved training program, a shared work program, or a job training program authorized under the Workforce Investment Act of 1998. The job training programs will be managed by the Department of Commerce. Kansas currently provides a maximum of 26 weeks of coverage for individuals enrolled in approved training programs.

The second and third modifications qualify Kansas to access an additional \$46.0 million dollars in ARRA funding for the Kansas Employment Security Trust Fund. The Department of Labor projects that the alternative wage base period and expanded coverage for workforce training provisions will exhaust the additional funding by 2023.



**Testimony for the KS Senate Business and Labor Committee
Regarding KS Unemployment Insurance & KS Employment Security Law**

**February 11, 2010
Topeka, Kansas**

**By Phillip M. Hayes, SPHR
VP, HR Services & Operations
The Arnold Group
530 S. Topeka, Wichita, KS 67208
P – 316.263.9283 x223 / phayes@the-arnold-group.com**

Dear Members of the Committee:

My name is Phillip M. Hayes and I am writing on behalf of my employer, The Arnold Group. Today, I would like to share our position on the current bills before the KS Legislature relating to the KS Employment Security Law. Ultimately, I believe a fix boils down to deciding how much to increase the amount employers pay into the fund and how much to limit benefits paid to workers. There has to be a compromise between these two elements, a fix can not be solely dependent on just one side of the equation.

Following are The Arnold Group's positions on the KS UI bills that have been introduced to date:

SB 474: Oppose

SB 474 would increase the taxable wage base from \$8,000 to \$9,000 in 2011 and to \$10,000 in 2012 and thereafter. The Arnold Group and other businesses I have spoke with oppose SB 474 as it will increase unemployment insurance taxes for employers beyond what we are already faced as we continue navigating out of dire economic times.

SB 529: Support*

SB 529 changes the calculation for maximum weekly benefit for calendar years 2010, 2011 and 2012 by utilizing the lowest amount of either the 2009 rate or 60% of the average weekly wage. I feel this serves as a good starting point, but we should also look at more aggressive approaches as well such as a maximum weekly benefit amount reduction, or a scheduled reduction based on number of weeks receiving benefits. For instance: provide full benefits amounts for the first 13 weeks, thereafter continue to diminish the amount to provide an incentive for claimants to accept job opportunities.

Many Kansas employers including The Arnold Group have paid more taxes into the fund than they have drawn down, yet we are penalized and now face the maximum tax rate under current law. Kansas employers understand that returning our fund to solvency is paramount, but also feel that some of the solution should be a reduction of the maximum weekly benefit amounts from our historic high levels. If the solution alone is to tax employers only without looking at the other primary variable in the equation, maximum weekly benefits, I fear the long term outlook for Kansas employers will be more of the same: maximum SUTA rates with no regard to experience. The solution has to be balanced from both sides.

SB 486: Support

SB 486 allows employers the option of deferring up to 50% of a single quarter's payments during the 90 days following the due date without accruing additional penalties or interest during that time. By providing a 90-day "grace period" on quarterly payments, SB 486 allows employers to better manage their cash flow in the wake of historic unemployment insurance tax increases. Although this bill would provide relief to many Kansas employers, The Arnold Group would not benefit significantly as our quarterly SUTA payments are fairly consistent each quarter based on the nature of our business.


HB 2644: Support

HB 2644 implements the original 2010 tax rates computed by the Kansas Department of Labor (KSDOL). Additionally, the bill stipulates forgiveness of penalties and interest earned on past due quarterly contributions if paid in full by the close of calendar year 2010.

Currently, positive balanced employers in 29 of the 51 rates groups are being penalized with the maximum tax rate, subsidizing much of the burden for negatively balanced employers who did not maintain employment. The bill provides a little relief for some of the positively balanced employers who were unduly bumped to the maximum rate and would restore a small amount of respectability to the experience rating of each employer, although there is much work to be done in this area in the future. *Business should be given the option of paying the original rate and modifying their payroll systems or paying the assessed rate if the tax rate change would impose further cost.*

KS SHRM Survey: KS Unemployment Insurance - 2010 Rate Reduction?

This survey was shared with more than 1800 KS SHRM Members on February 4, 2010. Through February 9, 2010, more than 180 surveys have been completed. Following are the results of our two question survey including comments from the participants:

 **Response Summary**

Total Started Survey: 196
Total Completed Survey: 184 (93.9%)

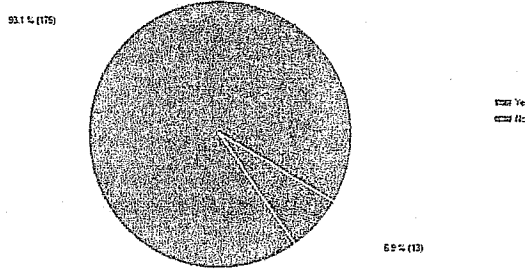
1. If the legislature were to reduce your 2010 UI rates, would it be too burdensome for you to adjust your current payroll system to account for the rate reduction? [Create Chart](#) [Download](#)

	Response Percent	Response Count
Yes	6.9%	13
No	93.1%	175
Hide replies Other (please specify):		20

- I work for a reimbursing employer so I don't believe this will affect me. Sat, Feb 6, 2010 10:16 PM [Find](#)
- No way! Like we pay quarterly, anything we can do to save money in this economy. Fri, Feb 5, 2010 11:00 AM [Find](#)
- Very easy to change. Fri, Feb 5, 2010 9:56 AM [Find](#)
- unknown. Fri, Feb 5, 2010 8:18 AM [Find](#)
- Better earlier than later. Thu, Feb 4, 2010 9:10 PM [Find](#)
- No, if it happens at the beginning of a quarter, but if it would happen in the middle of a quarter it would be very burdensome. Thu, Feb 4, 2010 3:34 PM [Find](#)
- QuickBooks does it for me. Thu, Feb 4, 2010 3:29 PM [Find](#)
- We are a nonprofit and a reimbursing employer (not tax rated). Thu, Feb 4, 2010 3:18 PM [Find](#)
- We are a reimbursing company rather than a contributing company. Thu, Feb 4, 2010 2:46 PM [Find](#)
- Our software consultants would have to make a customization in order to be able to save the prior payroll information and in which the company would have to spend additional money for this customization. Thu, Feb 4, 2010 1:51 PM [Find](#)
- My gosh! It takes one minute to make the change!! Thu, Feb 4, 2010 1:40 PM [Find](#)
- Is this in reference to the legislation meeting right now in regards to the proposed deferred payments? Thu, Feb 4, 2010 1:35 PM [Find](#)
- We are a governmental entity with the .1% rate. Thu, Feb 4, 2010 1:33 PM [Find](#)
- However not retroactively for payments which we may already have submitted for the 1st qtr. Thu, Feb 4, 2010 1:31 PM [Find](#)
- unsure. Thu, Feb 4, 2010 1:29 PM [Find](#)
- We are a "reimbursing employer" so this questionnaire is not applicable to our agency. Thu, Feb 4, 2010 1:17 PM [Find](#)
- I would be more than happy to adjust to a lower rate!!! Thu, Feb 4, 2010 1:15 PM [Find](#)
- But I'm not really sure I understand the question. I thought rates might be going up, not being reduced. Or do you mean our rating with the state? Thu, Feb 4, 2010 1:09 PM [Find](#)
- We are a subrogating employer. It is difficult though as we are paying significantly more also as benefits get extended. Thu, Feb 4, 2010 1:05 PM [Find](#)
- wouldn't affect us, we reimburse for claims vs paying tax. Thu, Feb 4, 2010 12:46 PM [Find](#)

25 responses per page

answered question 188
skipped question 8



4-2

2. Concerns have been raised that businesses have already set up their 2010 payroll systems and will not want to adjust midstream. Would that be your position? [Create Chart](#) [Download](#)

	Response Percent	Response Count
Yes <input type="checkbox"/>	18.2%	34
No <input type="checkbox"/>	81.8%	153
View responses Other (please specify)		30

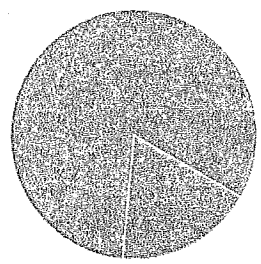
1. For a rate reduction, we would make it happen Thu, Feb 4, 2010 11:49 AM [Find](#)
2. Our system can accommodate a change midstream if necessary Mon, Feb 8, 2010 10:40 AM [Find](#)
3. I'd have to look but most likely, the answer is yes Sat, Feb 6, 2010 10:16 PM [Find](#)
4. Absolutely no problem whatsoever to make adjustments. Fri, Feb 5, 2010 11:00 AM [Find](#)
5. We've had to adjust midstream before. Why not now? Sounds like a lame excuse to me Fri, Feb 5, 2010 10:18 AM [Find](#)
6. Because it would be a easy change Fri, Feb 5, 2010 9:56 AM [Find](#)
7. That is utterly ridiculous. That would not be a concern if the state were going to raise rates mid-year, and it's laughable to/d say it is concern when a rate reduction might occur Fri, Feb 5, 2010 9:20 AM [Find](#)
8. For small companies like mine, this early in the year, it's not a burden for us to make an adjustment Fri, Feb 5, 2010 9:00 AM [Find](#)
9. Anything to save money during these economic times. It's simply a simple rate adjustment Fri, Feb 5, 2010 8:27 AM [Find](#)
10. Better earlier than later. Thu, Feb 4, 2010 9:19 PM [Find](#)
11. It's the significant increase in the rate that causes a budgeting problem more than a payroll system problem Thu, Feb 4, 2010 5:31 PM [Find](#)
12. We are a non-profit company and we saw a 277% increase from 2009, there would be no problem adjusting Thu, Feb 4, 2010 4:19 PM [Find](#)
13. No if it happens at the beginning of a quarter, but if it would happen in the middle of a quarter it would be very burdensome Thu, Feb 4, 2010 3:34 PM [Find](#)
14. I would love to reduce my UI rate Thu, Feb 4, 2010 3:25 PM [Find](#)
15. Again because we are reimbursing and not contributing, it should not affect us. Thu, Feb 4, 2010 2:46 PM [Find](#)
16. Needs to be at the end of a quarter Thu, Feb 4, 2010 2:13 PM [Find](#)
17. I believe that anything is reversible for just cause. A suggestion would be changing it after a completed quarter. Thu, Feb 4, 2010 2:05 PM [Find](#)
18. My company does business in multiple states and while they would not appreciate the extra work, it's certainly doable, especially to save money Thu, Feb 4, 2010 2:04 PM [Find](#)
19. Will not effect our system Thu, Feb 4, 2010 1:59 PM [Find](#)
20. If the adjustment would occur in midstream then the software we used would not correctly calculate the payrolls that were previously processed Thu, Feb 4, 2010 1:51 PM [Find](#)
21. No- how can anyone be against doing this?? Thu, Feb 4, 2010 1:40 PM [Find](#)
22. Adjustments can be made if needed Thu, Feb 4, 2010 1:35 PM [Find](#)
23. We are a governmental entity with the .1% rate Thu, Feb 4, 2010 1:33 PM [Find](#)
24. We can do it Thu, Feb 4, 2010 1:31 PM [Find](#)
25. Unsure. I feel that we could accommodate but would need clear parameters, etc., and sufficient advance notice Thu, Feb 4, 2010 1:24 PM [Find](#)
26. Again, HA, but I can't imagine that an adjustment midstream would be too cumbersome to deal with - especially if an organization can save valuable dollars. Thu, Feb 4, 2010 1:17 PM [Find](#)
27. Always willing to make adjustments if it saves the company dollars!! Thu, Feb 4, 2010 1:06 PM [Find](#)
28. It would depend on how much of a difference an adjustment would make in the amount we have to pay to justify changing it midstream Thu, Feb 4, 2010 1:06 PM [Find](#)
29. ICA - subcontracting employer Thu, Feb 4, 2010 1:06 PM [Find](#)
30. It's an easy adjustment to change the rate. Our software company would make the adjustment if it was base rate, which I think would be easy to. They would just let us know then that there is an upgrade to load. Thu, Feb 4, 2010 1:03 PM [Find](#)

2

25 responses per page

answered question 187
skipped question 9

81.8% (153)



81.8% (153)

4-3

HB 2664: Oppose

HB 2664 would provide tax credits to offset increasing contributions by way of unemployment insurance tax and related surcharges. While employers are anxious for relief from the 2010 tax rates and concerned about the stability of the trust fund, HB 2664 does not provide a workable solution that will assist employers with managing either cash flow or maintaining employment.

Before we can appropriately address the fund's solvency and loan repayment measures, we must "stop the bleeding" incurred through 2010 tax rates, which are resulting in additional lay-offs. The intent of HB 2664 is good but does not realize its aim of providing realized relief for businesses struggling to survive this year.

HB 2676: Support

HB 2676 would provide contributing employers the option to pay the 2010 adjusted tax rate or the 2010 original tax rate computation computed by the KSDOL for calendar years 2010 and 2011. Additionally, it states that no contributing employer choosing to pay the 2010 original tax rate computation shall pay a contribution rate above 5.40%. I would just clarify that no contributing positive balanced employer shall pay a contribution rate above 5.40%. The Arnold Group believes some relief is better than none.

Prioritized Recommendations for KS Employment Security Law: 2010 and Beyond

In addition to sharing our position on the current bills outlined above, I would like to share a prioritized list of recommendations with the KS legislature as we all continue to work through this very difficult issue. Although we may not be in a position to make all the necessary changes this year, this may serve as a foundation as we continue to work toward a better system this year and in subsequent sessions:

Priority 1: Immediate Relief – Stop the Bleeding

1. Revert to the original 2010 Rate Group tax rates
2. Expand the negative balance rate groups from 10 to 20, allowing a max surcharge of 4.0%
3. Reinstate the waiting week requirement for all claimants
4. Reduce the weekly benefit amount OR offer full weekly benefits for 13 weeks (half of state 26 weeks) and then begin weekly benefit reduction each week from weeks 14 through 26 – provide an incentive to proactively engage in the job market.
5. Regarding potential future FUTA increases:
 - Offer a credit to positive balanced employers with the projected FUTA increase in upcoming years:
 - 2010-2011: 0.8
 - 2012: 1.1 (0.3 tax credit)
 - 2013: 1.4 (0.6 tax credit)
 - 2014: 1.7 (0.9 tax credit)
 - Subsequently, penalize negative balanced employers with the same difference:
 - 2010-2011: 0.8
 - 2012: 1.1 + and additional 0.3 tax penalty = 1.4
 - 2013: 1.4 + and additional 0.6 tax penalty = 2.0
 - 2014: 1.7 + and additional 0.9 tax penalty = 2.8
6. KS Work Share Participants – prevent participants in the KS Work Share Program from receiving the \$25 additional Fed emergency benefit
7. Prevent employees that elect retirement (early or traditional) from receiving and KS UI benefits

Priority 2: Accountability – Introduce New Measures to Increase Accountability in the System

1. Conduct an audit on the KS UI System to determine the following:
 - Whether the structure fairly accounts for changes in workforce and industry work patterns, including seasonality, and claimant work patterns;
 - Whether the tax structure equitably distributes taxes; and
 - Whether the benefit structure is equitable.
2. Create a Precedence Manual for KS Adjudicators to apply the same standards across the state
3. Automate communication to employers
 - The current online system is tailored only for claimants, allow employers to report job refusals to KS DOL. This component would add accountability to the system.
 - Increase the timeline for employers regarding their experience rating notices to a minimum of 60 days
 - Increase the appeal process from 15 days to a minimum of 60 days.

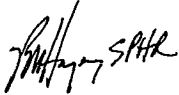
Priority 3: Systemic Changes – Steps to Preventing Insolvency in the KS Trust Fund in the Future

1. Identify predictive indices to allow the state to better forecast the solvency of the trust fund

2. Report the number of employers in each rate group with total taxable wages, expected yield and anticipated utilization rate/amounts.
3. Adjust the current system to reward employers who proactively manage their processes and claims.
 - Eliminate the dynamic rate group table and create a more consistent, static rate group table to allow the business community to plan more effectively from year to year
 - For "projected short" years – implement a consistent and fair surcharge (up to X%) that would be applied to every rate group – this would be applied to each employers **earned** rate group thereby allowing every employer to pay based on their merit/experience. For example:
 - An earned rate of 1.00% X 20% = 0.04 + 1.00% = 1.04%;
 - An earned rate of 4.30% X 20% = 0.86 + 4.30% = 5.16%
4. Make drug testing a requirement for UI benefits (initial claim and random testing while receiving benefits)
5. Tie the weekly benefit amount to federal/state minimum wage:
 - Current \$423 X 52 weeks = \$21,996 / 2,080 (FT hours) = \$10.58 hourly
 - Current plus fed additional \$25 weekly = \$448 X 52 weeks = \$23,296 / 2,080 (FT hours) = \$11.20 hourly
 - \$11.20 (unemployment hourly rate) - \$7.25 (minimum wage) = \$3.95
6. Implement a variable system for taxable wage limits based on employer status or rate groups to reward employers appropriately:
 - Option 1: Employer Status
 - Positive Balanced Employers: \$8,000
 - Negative Balanced Employers: \$9,000
 - Ineligible Employers: \$9,000
 - Option 2: Rate Groups:
 - Groups 1-25: \$8,000
 - Groups 26-51: \$9,000
 - Ineligible Employers: \$9,000
 - Negative Rate Groups: \$10,000
7. Abolish the ESAC or change how appointments are made to this advisory council.

This completes my prepared statement. I will be pleased to answer any questions the Committee might have. Additionally, I can be contacted at 316.263.9283 ext. 223 or by email at phayes@the-arnold-group.com if additional questions arise.

Respectfully,



Phillip M. Hayes, SPHR
 VP, HR Services & Operations

Testimony for the KS Senate Business and Labor Committee

**February 11, 2010
Topeka, Kansas**

**By Bill Goodlatte, Senior Vice President, Human Resources, The LDF Companies
2959 North Rock Road, Wichita, KS 67226
P-316-636-5575 x2020 / F-316-636-5644 / bgoodlatte@ldfcompanies.com**

Dear Members of the Committee:

My name is Bill Goodlatte. I would like to thank you for the opportunity to submit the following testimony as you consider the Unemployment Insurance issues currently facing us in the State of Kansas. As a human resources professional, small business manager, Chairman of the Kansas Restaurant & Hospitality Association (KRHA) and Member of the Society for Human Resource Management (SHRM), I urge the legislature to consider the burdens that are being placed on businesses.

When Larry Fleming opened his first Wendy's in Wichita in 1975, Kansas was a very business friendly state. Larry worked hard as anyone who knows him or has worked in a restaurant can attest. When his first Wendy's became successful, he opened another and another and so on. Larry now has 20 in Kansas, 16 in Oklahoma and 6 in Texas.

Can you imagine our surprise when we were notified on December 16, 2009 that our Kansas SUTA tax rate had been increased by over 500%? That is an additional \$132,628 per year. And we have never had a layoff! Sometimes we have to fire employees for cause or poor performance. They almost always apply for and receive unemployment benefits, even though we contest and appeal every case. Based on our experience, we believe the rates, benefit levels, granting of benefits and administration all need to be revised.

Our SUTA rates have gone up in Oklahoma and Texas as well, but by a very small fraction of the Kansas increase. So where do you think we will expand our business, build new stores, create new jobs and hire additional employees? Well the obvious answer is in more business friendly states like Oklahoma and Texas.

When taxes are raised beyond reason, companies have no choice but to lay off employees, close facilities, move to more business friendly states, or go out of business altogether. Conversely when a state is business friendly, companies start up, move in, grow and create new jobs. Please keep Kansas business friendly!

Thank you for permitting me to testify,

Bill Goodlatte

Bill Goodlatte

Senate Business & Labor Committee
Date: February 11, 2010
Attachment 5

Kansas Unemployment Issues

*I received two determinations for a Claimant. One determination was sent on 9/04/09 and stated we would not be charged. The second was dated 1/20/2010 saying we would be charged for benefits. I attempted to call the Kansas Department of Labor at the two different phone #s listed on the determinations several times a day for about 2 to 3 days and every time I called I received a busy signal. I finally was able to get through on 1/26/10 at 4:50 pm. I spoke with Angela, she was very nice but had no idea what needed to be done. She spoke with several other coworkers and finally told me that they would have someone return my call the next day at the very latest the day after. I asked what if I didn't receive a call back. Do I call her back? She assured me that I would receive a phone call back and if not just to call the same number back and speak with anyone. I did not receive a call, so on 2/1/2010 I tried calling the several numbers that I had, again through out the day. Again, busy signals. I came to work on the morning of 2/2/10 and called a couple more times. Finally at 9:20 I was able to get through just to be put on hold for 37 minutes before getting to speak with someone. On this day I spoke with Lindsey. She put me on hold so that she could read a handbook about my problem because she said they rarely get any phone calls from employers. She again didn't know what to do or who I should talk to and asked if I was given a name of who was supposed to call me. I explained to her that I was not given a name and was assured someone would call me. She said that she would have a supervisor call me within 48 hours and she would check to make sure that it did happen. I also asked her if there was a website that I could go to because I had 51 cases from Kansas that I have yet to get determinations on. Some were as far back as April, only 15 of them being in December. She told me to bring up these cases with the Supervisor that they could help me with that. She asked me what time I go to lunch so that she could be sure that her supervisor wouldn't call at that time. I told her between 12:30 and 1:30. I received a new determination in the mail on 2/4/10 for the same Claimant stating that we would not be charged. I finally received a call on 2/4/10 from Cheryl returning my call at 12:32. Of course, I was at lunch. I returned her call but have yet to get a return phone call from her even though I leave her a message every day. This is as of 6PM 2/10/10.



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TO: Sen. Susan Wagle, Chairperson
Members, Senate Business & Labor Committee

FROM: Ashley Sherard, Vice-President
Lenexa Chamber of Commerce

DATE: February 10, 2010

RE: **SB 529—Freeze on Maximum Weekly UC Benefits**

The Lenexa Chamber of Commerce appreciates the opportunity to express its support for the concepts contained in Senate Bill (SB) 529, which would freeze maximum weekly unemployment compensation benefits at 2009 levels.

As you have already heard from many business owners, the full impact of the 2010 unemployment compensation tax rates was significant and unanticipated. Without real relief, businesses have testified they will be forced to lay off workers or forego plans to hire/rehire workers, increasing the number of UC claimants – or worse, some may go out of business altogether, reducing the number of Fund contributors.

These scenarios must be considered as the state faces a very serious issue – how to rebuild the Fund balance over time and restore rate stability without “bankrupting” employers. We believe the concepts reflected in SB 529 represent an important piece of that puzzle, expanding consideration of potential solutions to include the Fund’s input and output and examining whether benefit levels strike an appropriate balance between safety net and disincentive.

We hope you will also continue to consider other means of reducing the impact of the 2010 assessments, including cutting the tax rate for 2010 to a more sustainable increase, as well as longer-term changes to the formula to better protect the integrity and fairness of experience ratings and to provide incentives for maintaining workforce.

For these reasons we would urge you to consider the concepts reflected in SB 529 favorably. Thank you very much for your time and attention to this important issue.

Senate Business & Labor Committee
Date: February 11, 2010
Attachment 6



Written Testimony in Support of Senate Bill 529

Submitted by Jennifer Bruning
On behalf of the Overland Park Chamber of Commerce

Senate Business and Labor Committee
Wednesday, February 10th, 2010

Chairwoman Wagle and Committee Members:

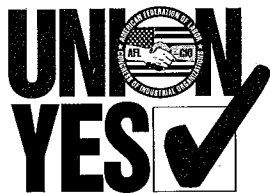
My name is Jennifer Bruning, and I am Vice President of Government Affairs with the Overland Park Chamber of Commerce. I am writing today on behalf of our board of directors and our nearly 1,000 member companies. I appreciate the opportunity to share written testimony in support of Senate Bill 529, which would amend the employment security law pertaining to the maximum weekly benefit.

The Overland Park Chamber has been concerned for some time about the potential of the Kansas Employment Security Trust Fund becoming fully exhausted due to increased joblessness claims and lower investment returns caused by our current recession. Unfortunately, the fund's impending bankruptcy will require more from Kansas' employers at a time when they are stretched to limit in their ability to give more.

One of the Overland Park Chamber's most important priorities is to support efforts to return the Employment Security Trust Fund to solvency while balancing the cost of doing so to employers, especially considering the difficult economic conditions our state is presently experiencing. SB 529 would place a three-year cap on the maximum weekly benefit amount payable to an individual making a claim on the Fund. We feel this bill is a good first step in finding a way to start replenishing the Fund without bankrupting Kansas' employers.

Again, the Overland Park Chamber appreciates the opportunity to support this legislation, and encourages the committee to recommend SB 529 favorably for passage.

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Jason Vellmer*

TESTIMONY
On Senate Bill 529
Before the
Senate Business and Labor Committee
Presented by Andy Sanchez, Executive Secretary-Treasurer
KS AFL-CIO
February 10, 2010

Thank you Madam Chair and members of the Committee. I appreciate the opportunity to share my thoughts on Senate Bill 529. SB 529 would cap the weekly benefit amount for 3 years and this is a proposal that we are opposed to. We believe it is exactly the wrong time to withhold a "life raft" to those in need and a three year freeze is far too long.

The Employment Security Advisory Committee (ESAC) recommendation does include a similar proposal for 2 years which labor supported as part of a comprehensive approach. In fact, this had overwhelming support among the ESAC. I have had the pleasure of serving on the council since 2006 and it is a great working group which meets it's "charge" for what it is there to do. However, these times are extraordinary times.

Most agree that we are in midst of the worst recession since the Great Depression. Most would agree that the State Unemployment System serves as a meaningful transition for those laid off through no fault of their own. The system works! Even now it continues to serve the purpose. It means very little but in 1982 almost half the states had to borrow funds to pay unemployment benefits. Thirty-five states will be in that same predicament this time around. Why? Unfortunately, any recommended level of solvency will also be relative to the economy at the time, boom or bust. Obviously we are in a cycle of bust right now.

Because working Kansans need help right now, we believe a freeze on benefits is the wrong direction to go for a faster recovery of the Kansas economy. Still, we are keenly aware that a reasonable and balanced comprehensive approach will help to stabilize the UI Trust Fund. This is a time when calm heads will prevail and the Kansas AFL-CIO will advocate for a reasonable and balanced approach. ESAC has brought forth such a recommendation. SB 526 goes beyond the approach taken by ESAC though and it will prolong suffering. Further, a three year freeze would relinquish our ability to monitor changes in the economy and adjust benefits. We respectfully ask that SB 529 not be advanced. Thank you again for this opportunity to offer our opposition to SB 529.



Senate Business & Labor Committee
Date: February 11, 2010
Attachment 7

Testimony on 2010 Senate Bill 529
To
Senate Business and Labor Committee
By
Jim Garner, Secretary
Kansas Department of Labor
10 February 2010

Chairwoman Wagle and members of the Committee:

Thank you for the opportunity to appear and share my comments regarding 2010 Senate Bill 529. This bill caps the maximum weekly benefit amount for unemployment benefits for a period of three years.

I would like to begin by sharing that the Employment Security Advisory Council has recommended a two-year freeze on the maximum weekly benefit amount as part of a package of recommendations to deal with Trust Fund solvency issues. Among the other recommendations of the Council are:

- Increasing the taxable wage base to \$9,000 in 2011 and to \$10,000 in 2012 and thereafter indexing the taxable wage base to increases in the average weekly wage.
- Adding nine additional negative balance rate groups to the existing 10 negative balance rate groups.

These recommendations are the result of an effort on the part of the Council to create a balanced approach to addressing Trust Fund solvency issues, demonstrating some shared sacrifice toward rebuilding the Trust Fund. I support the recommendations of the Council and believe that the measures in this bill – for a two year period --belong as part of a complete package of items to address Trust Fund solvency rather than as a stand-alone bill.

I'd like to share a few facts about weekly unemployment benefit amounts in Kansas:

- As of December 2009, the maximum weekly benefit amount in Kansas was ranked 23rd in the nation – meaning that nearly half the states in the nation have a higher maximum weekly benefit amount than Kansas.
- To receive the maximum weekly benefit amount of \$436 for the maximum 26-week period, an individual would have to have earned at least \$34,000 in their base period. The average weekly wage in Kansas is \$718 and the average annual earning for Kansas is \$37,366.
- Qualifying individuals earning more than \$34,000 are capped at receiving \$436 per week.
- The average weekly benefit amount varies from month to month and is impacted significantly by the wages of those who are unemployed. In this recession, the majority of the unemployed in our state come from the manufacturing (38.3%) and construction (14.4%) sectors – industries with relatively high wage earners.

*Senate Business & Labor Committee
Date: February 11, 2010
attachment 8*

- By contrast, retail trade and food service workers, those who are typically lower wage earners, account for just 6.1% and 3.7% respectively of unemployment claims.

Again, Madam Chair I appreciate you allowing me this opportunity to share my concerns about this Bill.