

JOINT HOUSE AND SENATE
MINUTES OF THE _____ COMMITTEE ON LABOR, INDUSTRY AND TOURISMThe meeting was called to order by Sen. Bill Morris at
Chairperson1:30 ~~am~~ p.m. on February 28, 1983 in room 313-S of the Capitol.All ~~members were present except~~ Senate members were present.

All House members were present except:

Committee staff present:

Mark Burghart, Research Department

Bruce Kinzie, Revisor

Louise Cunningham, Secretary

Conferees appearing before the committee:

Rep. Jim Patterson, Indendence

Tom Williams, Olathe, Guaranteed Foods of Lenexa

Mike Sullivan, Lawrence Paper Company

Joe Forlenza, K.C., Standard Motor Products

Richard Connell, USD 354, Superintendent of Schools, Claflin

Jerry Hess, Medical Personnel Pool, K.C.

Eric Walther, Lawrence, Packer Plastics

Jayne Cafer, Topeka, Highland Park Bank

William Stansbury, Topeka, Blue Cross/Blue Shield

The Chairman said the Advisory Council would be meeting during the interim and this meeting was being held to offer suggestions to them for their consideration. The Research Department had prepared a Memorandum dated February 25, 1983 regarding suggested changes in the Employment Security Law. A copy is attached. (Attachment 1).

Rep. Patterson said he was appearing on behalf of a constituent with a publishing business. This was a third generation company and they had very little fluctuation in their employment. They terminated an employee due to a drinking problem. The employee was granted unemployment benefits amounting to \$3900. This caused the employer's rating to go from a Group 4 to a Group 13 and the employer paid over \$5000 more than he would have paid. He could have paid the employee's benefits and came out ahead. Rep. Patterson said something must be wrong with the way the rates are set.

Tom Williams, Guaranteed Foods, Lenexa, said he was concerned about the interpretation of the law. He agreed with the intent of the law but takes issue with the way it is handled when someone quits voluntarily. He cited several cases that were ruled against him when the employee quit with "good cause". He did not feel the decision was right. He said one employee stated he "could make more money drawing unemployment so there was no sense to work". He said if an employee was unable to make enough in sales it was considered "good cause" to quit even though the sales person had not made what Mr. Williams considered to be, a good effort. He said even though these quits were not charged against his account somebody is paying for them and it is causing the rates to go up. He stated that the examiners, referees and Board of Appeals are granting benefits as though there is a never-ending source of funds. He felt in the best interest of the state the manner in which these laws are interpreted should be examined. It would make a difference in the amount employers had to contribute. Mr. Williams said in Missouri the laws are interpreted differently and the employee has to show he did not contribute to the circumstances which caused him to quit. Information was made available to the Committee concerning some case histories of his unemployment problems.

Mike Sullivan, Lawrence Paper Company, cited a case of an employee who had a very bad absentee record. The company policy is that the employee has to seek medical attention after three days off but this particular employee never did seek medical attention and would be on and off the job for two or three days. The employee finally quit without notice and filed for compensation. The referee decided the employee quit with "proper cause". The case is being appealed. Mr. Sullivan said he has no idea what criteria is used to determine "good cause". The Department has no consistency in interpretation.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

Joe Forlenza, Edwardsville, Standard Motor Products, said his company started in Kansas with three employes and now they have 327 employes. He said his experience with the Department was that it was consistently inconsistent. He felt that the Department was dealing with economic problems and felt that it was operating a welfare program in the guise of unemployment compensation. There should be restrictions on "good cause" and voluntary quits. He said that administration was the problem. There should be a review of the Rules and Regulations governing the granting of compensation and the rulings should be consistent. Information was made available to the Committee concerning his dealings with the Department.

Richard Connell, Superintendent of Schools, USD 354, related the experience of an employee who handed in a resignation after serving one year of a two-year contract. He entered into business for himself. He subsequently filed for unemployment benefits and was declared ineligible because he left "without good cause". The individual filed an appeal and is now scheduled for a hearing. This kind of abuse should be brought to the attention of the Legislature. It is costly and time consuming. A copy of his statement is attached. (Attachment 2).

Jerry Hess, Medical Personnel Pool, K.C., said they supply nursing personnel on a temporary basis. They are subjected to the same rules as permanent employes when it comes to unemployment. Their employes usually do not want permanent jobs and they can refuse to take another job and then draw benefits. Sometimes the Department rules for them and sometimes it rules against them. There must be a change in the law regarding temporary hiring. They are getting different rulings from Missouri and the rulings are more consistent there. Their agency does not offer fulltime work and they should have standardized rulings.

Eric Walther, Lawrence, Packer Plastics, said there had been a shift in the interpretation of what is a proper reason for quitting a job. He cited the case of an employee who had quit because she said she could not find proper childcare. She did not speak to them about perhaps changing her shift and gave the employer no chance to work with her in resolving her situation. He felt that in a city the size of Lawrence there were proper child care facilities and this was not "good cause".

Jayne Cafer, Personnel Director, Highland Park Bank, Topeka, said they were seeing the same type of problems but she said her relationship with the Department had been satisfactory and she had no complaints. Some of the cases had interesting decisions.

William Stansbury, Topeka, Blue Cross/Blue Shield, said they had 1200 employes and there had been a drastic increase in unemployment compensation. Their attorney felt that a big part of the problem was that the term "good cause" gave too much latitude to the referee concerning voluntary quits.

He said that prior to 1982 they were getting consistent opinions but now a clarification was necessary for "good cause". He said they had appealed three cases and lost all three.

The Chairman encouraged members to offer specific suggestions for the law. Meeting was adjourned.

Joint House & SENATE LABOR, INDUSTRY & TOURISM COMMITTEE

Date 2-28 Place 313-S Time 1:30

GUEST LIST

NAME

ADDRESS

ORGANIZATION

Wayne Maichel	Topeka	Kansas AFL-CIO
Neil Leide	"	United Rubber Workers
Thomas G. Williams	LENEXA	GUARANTEED FOODS, INC.
Ray Sinatra	✓	✓
Arthur Welber	Topeka	Lincoln
William F. Stensby	Topeka	BC & BS
Patrick M. Mulligan	"	BC & BS
Michael Sullivan	Lawrence	Lawrence Paper Co.
Joseph Stofko	EDWARDSVILLE	STANDARD MOTOR PRODUCTS
Jeanette Carter	✓	✓
Alma Hill	2801 Lakeview Rd Lawrence, Kansas	
BURT DeBAUN	770 174W	State House
Jim Pellason	Independence, KS	Legs.
Garry Hess	Prarie Village, Ks.	Medical Personnel Pool
Roy Holport	Topeka	DHR

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MEMORANDUM

February 25, 1983

TO: Members of the House and Senate Committees on Labor
and Industry

FROM: Kansas Legislative Research Department

RE: Suggested Amendments to the Employment Security Law,
K.S.A. 44-701 et seq.

Listed below are certain recommendations for amending the Kansas Employment Security Law. The various suggestions are compiled from those submitted by legislators and interested parties. For purposes of clarification, the items are characterized as either affecting the financing provisions of the law or the provisions relating to eligibility for and amount of benefits.

Financing

1. The wage base upon which employer contributions are paid should be increased from the current \$7,000 to a higher dollar amount.
2. The average annual payroll computation should be changed from a three-year to a five-year average. Presently, the employer's payroll may be artificially high in one year and this particular change in the law would result in a more accurate reflection of the employer's payroll experience.
3. A surcharge should be imposed on negative account balance employers.
4. A stronger experience rating formula should be implemented to clearly distinguish the rates of employers with a good experience rating from those with a poor experience rating.
5. The maximum contribution rate should be increased as high as possible to properly place the vast majority of unemployment compensation costs on the appropriate employers.
6. A wage base should be established upon which employer contributions are paid at a figure equal to the wages required to qualify an employee for the maximum benefit amount.
7. A 3 percent rate should be charged for new employers until they qualify for a different rate under the experience rating scheme.

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8. A trust fund "growth tax" should be added to become effective anytime the balance in the Employment Security Fund available to pay benefits drops below a specified level.
9. Benefits should be charged to the accounts of base period employers in inverse chronological order rather than having benefits charged on a proportionate basis.
10. Stricter eligibility and qualifying requirements for noncharging benefits should be implemented.
11. All benefits should be charged to the account of employee's last employer on the theory that such employer has primary responsibility for the individual's unemployment.

Eligibility for Benefits and Benefit Amounts

1. Employees who voluntarily quit without good cause should be disqualified for benefits.
2. Employees who are discharged for gross misconduct should be disqualified for benefits.
3. Employees who refuse to accept suitable work should be disqualified for benefits.
4. The weekly benefit amount should be based on the average wage for a 26-week period rather than the wage in the highest quarter in the base period.
5. The maximum benefit should be set at a specific dollar amount rather than as a percentage of the average wage which automatically adjusts the maximum benefit amount.
6. An exception to the weekly reporting requirement for unemployed individuals should be created. The exception would not require the report during periods of high unemployment or where reporting would be unproductive or cause undue hardship.
7. If an employee receives either dismissal pay or vacation pay, the claimant should not be allowed to draw benefits for the equivalent number of weeks of pay these payments represent.
8. In determining whether a claimant is required to accept certain employment, the law should specify that after a certain number of weeks of unemployment, the claimant's prior training and experience may not be considered or his prior earnings considered if a proposed job, although not identical to the claimant's previous job, pays wages equal to the average weekly wage.

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Testimony of Richard Connell

before

House and Senate Labor & Industry Committee

February 28, 1983

Chairmen and Committee members, I appreciate the opportunity to appear before you and disclose an example of an abuse of unemployment insurance compensation.

I am Richard Connell, Superintendent of Schools, USD # 354 Claflin. This past school year the Claflin School District received a letter of resignation from a district administrator serving the first year of a two year contract. The Board of Education approved his request for release and accepted his resignation. Following the completion of his administrative duties the individual entered into a business for himself and became self employed. During the month of December he filed for unemployment insurance under his base period of employment with the school district. A judgement was rendered reading the claimant ineligible since the individual had left work without good cause and he had taken no action to find a job. The individual appealed and the case is now scheduled for a hearing.

We feel this kind of abuse under the current law should be called to your attention. These cases are costly and time consuming to the employer and to the State.

Thank you for the opportunity to express this concern.

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ADDRESS CORRESPONDENCE TO

JOB INSURANCE OFFICE 610
500 N. MAIN, BOX 1799
S. HUTCHINSON, KS 67505

KANSAS DEPARTMENT OF HUMAN RESOURCES
DIVISION OF EMPLOYMENT

EMPLOYER NOTICE

A Claim for unemployment insurance has been filed by this individual. Please provide information as indicated below.

CLAIM FILED BY

SSN 514-44-7782
NAME ZUHARS, KIRK E
OTHER NAME IF ANY:

1. Reason for Separation from Most Recent Job	2. Last Day Worked At Most Recent Job	3. Benefit Year Ends	4. You Reported Wages these Quarters of Base Period	5. Potential Benefit Charge to Your Account
QUIT	JUNE 15, 1982	DEC. 25, 1983	3-81, 4-81, 1-82, 2-82	\$4238.00

YOU ARE THE MOST RECENT (LAST) AND ALSO A BASE PERIOD EMPLOYER. REFER TO PARTS A AND B. ALSO, WE MUST HAVE COMPLETE, DETAILED INFORMATION FROM YOU AS TO REASONS FOR CLAIMANT'S SEPARATION FROM YOUR EMPLOYMENT.

EMPLOYER NAME - ADDRESS	EMPLOYER NUMBER	DATE MAILED
USD NO 354 46 BARTON COUNTY SCHOOL DIST BOX 346 CLAFLIN KS 67525	135961	JAN. 10, 1983
WHERE EMPLOYED IN MOST RECENT JOB		

Part A. LAST EMPLOYER - Reference K.S.A. 44-709
The claimant indicates you are the last employer. Please verify items in 1 and 2. Please reply, if incorrect, or if you believe the claimant's reason for separation is disqualifying; is unable; is unavailable for work, or if you have work for the claimant now.

I protest the claim and will furnish separation information on the reverse side.

USD # 354 Claflin will protest this claim.

YOU MUST REPLY WITHIN 16 CALENDAR DAYS FROM THE DATE THIS NOTICE WAS MAILED, OR THIS NOTICE IS FINAL IF YOU DO NOT RESPOND, OR ARE LATE IN RESPONDING, PAYMENT WILL BE DECIDED FROM THE INFORMATION SUPPLIED BY THE CLAIMANT.
(SEE REVERSE SIDE)

Part B. BASE PERIOD EMPLOYER Reference K.S.A. 44-710(c)

Our records show you paid wages to the claimant in the base period as shown in Item 4, on reverse side. Your account is chargeable for benefits paid the claimant with respect to the benefit year ending as shown in Item 3. Item 5 indicates the maximum amount that could be charged to your account. If the claimant's last employment with your firm terminated for one of the following reasons, you may be eligible for a non-charge now as a result of this valid new claim. If so, check block No. 1 below, and supply separation information.

- a. Discharge for breach of duty connected with the work
b. Discharge for gross misconduct connected with the work
c. Left work voluntarily without good cause attributable to the employment
d. Was and still is a part-time employee
1. I request a reconsideration of benefit charges under K.S.A. 44-710(c) Kansas Employment Security Law for the reasons shown below:
2. I request an Employer Notice when the first payment* is made following an additional claim. (You may request that your charge/noncharge determination be deferred until a first payment* is made. If you check block No. 2 you will be mailed a second notice after first payment* is made as a result of an additional claim. Your charge/noncharge determination will be based on the most recent separation at the time the first payment* is made.)

EMPLOYER REPLY - SEPARATION INFORMATION (Please provide complete details): LAST DAY WORKED June 15, 1982
Mr. Kirk Zuhars was employed by USD # 354 Claflin Schools during the 1981-82 school year

as an elementary jrhi principal and was on the first year of a two year contract. On April 6, 1982 Mr. Zuhars submitted a letter of resignation and the Board of Education released him from his contract and accepted his resignation on April 8, 1982. Mr. Zuhars completed the first year of his two year contract on June 15, 1982 and release from contract and acceptance of his resignation officially terminated his employment June 15, 1982.
It is our understanding that Mr. Zuhars is now self employed.

If additional space is needed, attach a letter. You may attach any documentation you wish to have considered.

316 587 3878
Telephone Number

Jan. 13, 1983
Date Mailed

Richard R. Cornell
Signature

Superintendent
Title

K-Ben 451 (5-82) *First payment refers to the first payment of unemployment insurance benefits made to the claimant during the benefit year in Item 3.

ADDRESS CORRESPONDENCE TO

JOB INSURANCE OFFICE 610
500 N. MAIN, BOX 1799
S. HUTCHINSON, KS 67505

DEPARTMENT OF HUMAN RESOURCES
Division of Employment

CLAIMANT ZUHARS, KIRK E
EXAMINER 606

*Recd
1-15-83*

SSN 514-44-7782
CODE 21172
BEGINS 12-26-82
ENDS 01-01-83
MAILED 01-14-83

THE CLAIMANT REPORTED ON A CONTINUED CLAIM THAT HE/SHE TOOK NO ACTION TO FIND A JOB. THIS CLAIM WAS FOR THE WEEK THAT BEGINS 12-26-82 AND ENDS 01-01-83.

THE CLAIMANT IS INELIGIBLE FOR BENEFITS FOR THIS WEEK.

THE LAW, KSA 44-705, PROVIDES THAT AN UNEMPLOYED INDIVIDUAL IS ELIGIBLE FOR BENEFITS FOR THE WEEKS THAT THE WORKER IS UNEMPLOYED, ABLE TO WORK, AND AVAILABLE FOR WORK, AS DEMONSTRATED BY A PURSUIT OF ACTION REASONABLY CALCULATED TO RESULT IN RE-EMPLOYMENT. THERE MUST BE NOTHING TO PREVENT THE CLAIMANT FROM OBTAINING AND ACCEPTING WORK.

USD NO 354
BARTON COUNTY SCHOOL DIST 4211
BOX 346
CLAFLIN KS 67525

ADDRESS CORRESPONDENCE TO

JOB INSURANCE OFFICE 610
500 N. MAIN, BOX 1799
S. HUTCHINSON, KS 67505

DEPARTMENT OF HUMAN RESOURCES
Division of Employment

CLAIMANT ZUHARS, KIRK E
EXAMINER 608

SSN 514-44-7782
CODE 28125
BEGINS 12-26-82
ENDS 03-12-83
MAILED 01-21-83

THE CLAIMANT LEFT WORK WITHOUT GOOD CAUSE.

THE DISQUALIFICATION PERIOD BEGINS 12-26-82 AND ENDS 03-12-83, AND THE CLAIMANT'S BENEFIT ENTITLEMENT IS REDUCED BY \$1630, LEAVING A BALANCE OF \$2608 AS OF 01-20-83.

THE CLAIMANT LEFT WORK FOR PERSONAL REASONS. THE REASONS GIVEN DO NOT SHOW GOOD CAUSE.

THE LAW, K.S.A. 44-706, PROVIDES THAT AN INDIVIDUAL SHALL BE DISQUALIFIED FOR BENEFITS BEGINNING WITH THE WEEK IN WHICH THE VALID INITIAL CLAIM IS FILED AND FOR THE 10 CONSECUTIVE WEEKS WHICH IMMEDIATELY FOLLOW SUCH WEEK AND SHALL FORFEIT BENEFIT ENTITLEMENT EQUAL TO 10 TIMES THE INDIVIDUALS WEEKLY BENEFIT AMOUNT IF THE INDIVIDUAL LEFT THE LAST WORK VOLUNTARILY WITHOUT GOOD CAUSE. TO AVOID A DISQUALIFICATION FROM BENEFITS, THE WORKER MUST HAVE DONE EVERYTHING REASONABLE TO KEEP THE JOB AND LEFT WORK ONLY AS A LAST RESORT.

NOTICE OF DETERMINATION UNDER KSA 44-710(C)-BENEFITS PAID ON THIS CLAIM WILL NOT BE CHARGED TO YOUR FIRM'S ACCOUNT.

USD NO 354 46444778251
BARTON COUNTY SCHCOL DIST 4211
BOX 346
CLAFLIN KS 67525

ADDRESS CORRESPONDENCE TO

JOB INSURANCE OFFICE 610
500 N. MAIN, BOX 1799
S. HUTCHINSON, KS 67505

DEPARTMENT OF HUMAN RESOURCES
Division of Employment

CLAIMANT ZUHARS, KIRK E
EXAMINER 608

SSN 514-44-7782
CODE 11101
BEGINS 12-26-82
ENDS
MAILED 01-24-83

THE CLAIMANT IS MEETING THE ELIGIBILITY REQUIREMENTS.

THE CLAIMANT IS AVAILABLE FOR WORK WITH NO UNCLUE RESTRICTIONS.

THE LAW, KSA 44-705, PROVIDES THAT AN UNEMPLOYED INDIVIDUAL IS ELIGIBLE FOR BENEFITS IF
THE WORKER IS UNEMPLOYED, ABLE TO WORK, AND AVAILABLE FOR WORK, AS DEMONSTRATED BY THE
PURSUIT OF ACTION REASONABLY CALCULATED TO RESULT IN RE-EMPLOYMENT.

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USD NC 354 46444778251
BARTON COUNTY SCHCOOL DIST 4211
BOX 346
CLAFLIN KS 67525

NOTICE OF HEARING

BEFORE REFEREE--- KENT ROTH 21 SSN 514-44-7782
TELEPHONE (316) 792-7754 DOCKET NO 301815
DATE MAILED 83-02-17

CLAIMANT--- EMPLOYER---
ZUHARS, KIRK E BARTON COUNTY SCHOOL DIS
300 7TH ST BOX 346
CLAFLIN KS 67525 CLAFLIN KS 67525

AN APPEAL HAS BEEN FILED BY CLAIMANT FROM A DETERMINATION DATED 83-01-12.
YOU ARE TO APPEAR TO GIVE EVIDENCE IN THIS MATTER.

---THE ISSUES TO BE COVERED AT THE HEARING ARE---

K.S.A. 44-706 - VOLUNTARILY QUIT EMPLOYMENT BECAUSE OF PERSONAL REASONS.

POTENTIAL CHARGE TO EMPLOYER'S ACCOUNT.

HEARING WILL BE CONDUCTED ON MAR 3, 1983 AT 2.45 PM CENTRAL TIME
AT JOB SERVICE OFFICE
2120 11TH ST
GREAT BEND, KANSAS 67530

PLEASE BE ON TIME.
IF YOU HAVE ANY QUESTIONS, PLEASE CALL THE REFEREE AT THE NUMBER LISTED ABOVE.
PLEASE READ THE ENCLOSED INSTRUCTIONS.

BARTON COUNTY SCHOOL DIS
BOX 346
CLAFLIN KS 67525