

Approved: January 22, 1997
date

MINUTES OF THE SENATE COMMITTEE ON COMMERCE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on January 21, 1997 in Room 123-S of the Capitol.

Members present: Senators Salisbury, Barone, Brownlee, Feleciano, Gooch, Harris, Jordan, Ranson, Steffes, Steineger and Umbarger.

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

Conferees appearing before the committee:

Don Schnacke, Kansas River Basin Industrial Complex
William H. Layes, Kansas Department of Human Resources
Terry Leatherman, Kansas Chamber of Commerce and Industry
Hal Hudson, State Director, National Federation of Independent Business
Wayne Maichel, AFL-CIO
Reggie Davis, Director, Division of Employment Security, Department of Human Resources

Others attending: See attached list

Upon motion by Senator Feleciano, seconded by Senator Steineger, the Minutes of January 27, 1997 meeting were unanimously approved.

Don Schnacke stated appeared on of volunteers located in 11 counties along the Kansas River to request a bill be introduced, 7RS0199, to create the Kansas river basin economic development corridor. (Attachment 1.)

Upon motion by Senator Feleciano, seconded by Senator Ranson, 7RS0199 be introduced as a Commerce Committee bill. The voice vote was in favor of the motion.

SB 20 - Employment security contribution moratorium extended

William H. Layes, Chief of Labor Market Information Services, Kansas Department of Human Resources, stated employment levels have remained high, allowing for an extension of the unemployment insurance moratorium through CY 1998. Mr. Layes stated the current trust fund stands at \$633.0M. The fund remains sound following two consecutive years (1995 and 1996) of zero tax rates for 45,000 Kansas employers. Mr. Layes stated the data reflects the current reserves can withstand a fourth year of moratorium without posing a significant risk to the financial integrity of the trust fund. Mr. Layes informed the Committee **SB 20**, page 10, lines 24 through 29, provides for security of the fund by establishing a reserve ratio of not less than 2% of total wages paid or approximately \$400.0M. Mr. Layes reported the trust fund stood at \$723.8M at the commencement of the moratorium. Most recent trust balance for December 1996 is \$640.9M. The trust fund balance at the end of \$1997 is expected to be \$564.7M and \$478.2M by the close of 1998. (Attachment 2.)

In response to a question from the Committee, Mr. Layes stated the average increase in wages has been about 5%.

Terry Leatherman, Executive Director, Kansas Industrial Council, Kansas Chamber of Commerce and Industry (KCCI) stated three reasons to extend the unemployment compensation tax moratorium through 1998: (1) the positive impact for Kansas employers by utilizing the tax dollars in job creation and expansion, equipment improvement and technology upgrades, and debt retirement. (2) the balance in the trust fund allows for such an extension without impairing the fund's solvency. (3) **SB 20** provides for the close monitoring of the condition of the fund. KCCI realizes this program can't last forever, and KCCI will ask to resume unemployment taxes at the lower level when the fund's resources are below the 2%. Attachment 3

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON COMMERCE, Room 123-S Statehouse, at 8:00 a.m. on January 21, 1997.

Hal Hudson, State Director, National Federation of Independent Business, stated his organization is in favor of **SB 20**, extending the moratorium on contributions to the Kansas employment security fund for another year. Mr. Hudson stated the moratorium has stimulated economic development in the state. Attachment 4.

Wayne Maichel, AFL-CIO, stated the AFL-CIO is in favor of extending the moratorium on unemployment compensation tax as provided in **SB 20** due to the safeguard contained on Page 10.

Senator Feleciano moved, seconded by Senator Steffes that **SB 20** be reported favorable. The recorded vote was unanimous in favor of the motion.

Reggie Davis, Director, Division of Employment Security, Department of Human Resources, submitted recommendations of the Employment Security Advisory Council. The Council voted to request legislation amending K.S.A. 44-709 and 44-710(c) to broaden the means by which claim notices can be delivered to an employer to include such devices as facsimile machines and electronic mail; and a new subsection to K.S.A. 44-718 regarding a food stamp exception, bringing the State into conformity with federal requirements. Attachment 5.

Upon motion by Senator Steffes, seconded by Senator Gooch, the Committee approved the introduction of legislation requested by the Employment Security Advisory Council.

Lynne Holt, Legislative Research Department, presented an overview of Kansas Economic Opportunity Initiatives Fund (KEOIF). Ms. Holt informed the Committee the use of KEOIF funds is a marketing tool to recruit new business. The funds are used to fortify any incentive package the state may be preparing for new businesses, as they contribute significantly to off-set the high cost of location. The funds are used as a loan agreement based on certain targeted objectives.

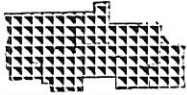
The meeting was adjourned at 8:50 a.m.

The next meeting is scheduled for January 22, 1997.

SENATE COMMERCE COMMITTEE GUEST LIST

DATE: January 21, 1997

NAME	REPRESENTING
Hal Hudson	NFIB / KS
Ashley Sherard	Overland Park Chamber
JAMES JANOUSEK	KDOCH
Don Schenk	KRBE DC
AVI GRANT	KCC
Steve Kelly	KDOCH
Art Brown	mo - on Luncheon APR 11
Bill Sage	KS Dept Human Resources
PAUL BUCKNELL	" " " "
Beggie Davis	" " " "
Bob Lierz	" " " "
Dave Pelaez	KS Council on Job Ed
Bue Jones	BOEING
JAKOJ FITSBERGER	BRAD SMOOT
MARK RAN	Manpower



INDUSTRIAL DEVELOPMENT COMPLEX

STATEMENT OF DONALD P. SCHNACKE
BEFORE THE SENATE COMMERCE COMMITTEE
January 21, 1997

RE: *Creating the Kansas River Basin
Economic Development Corridor*

COUNTIES

- Douglas County
- Geary County
- Jackson County
- Jefferson County
- Johnson County
- Leavenworth County
- Pottawatomie County
- Riley County
- Shawnee County
- Wabaunsee County
- Wyandotte County

COMMUNITIES

- Alma
- Bonner Springs
- Edwardsville
- De Soto
- Holton
- Junction City
- Kansas City
- Lansing
- Lawrence
- Leavenworth
- Lenexa
- Manhattan
- Merriam
- Olathe
- Onaga
- Oskaloosa
- Overland Park
- Mission
- St. Marys
- Shawnee
- Topeka
- Valley Falls
- Wamego

ORGANIZATIONS

- Western Resources
- Washburn University
- Kansas Department of
Commerce & Housing
- Kansas Department of Transportation
- Kansas State University
- University of Kansas

I am Don Schnacke and am appearing on behalf of volunteers located in the eleven counties stretching along the Kansas River from Junction City to Kansas City. We are asking the Kansas legislature to authorize the creation of what we call the Kansas River Basin Economic Development Corridor.

The idea of creating the Kansas River Basin Economic Development Corridor arose out of a study by five Presidents of the Chambers of Commerce from Junction City, Manhattan, Topeka, Lawrence and Kansas City. This was done during the time I served as President of the Greater Topeka Chamber of Commerce.

Our studies indicate that there is a common economic thread tied to close to one-half of the population of Kansas that resides in the 11 counties along the Kansas River. The infrastructure is enormous, including four major reservoirs; highways; railroads; universities and a strong educational base; airports, and federal, state and local governmental presences.

With all these good infrastructure points contained in the corridor, we are baffled by the stagnation and negative trends in some of the counties. Statewide, Kansas is holding its own with only 3.9% of the labor force not working - about par nationally. But in this 11-county region, the unemployment is 4.52%, or about 30% higher than the mean. There is heavy unemployment in Geary, Jackson, Shawnee and Wyandotte counties. Topeka's unemployment has increased 0.7% since November, 1996, reflecting layoffs by key Topeka employers. Future Topeka State Hospital layoffs will continue to erode our potential in Topeka.

Our effort to date is an attempt to reverse this trend and market this region which has great potential for dynamic growth in Kansas. With the backing of the Governor and the Kansas Department of Commerce and Housing, we sought an EDA grant. With this money we conducted a detailed inventory of the potential in all 11 counties and several cities.

We are in touch with the cities and counties involved. Some have sent money to help us in our work. Our goal is to improve communication between counties and cities and create a network of appreciation of each entity throughout the region. Our goal is to help each other in the area of economic development. When something good happens, when jobs are created, we want the entire region to applaud. What happens in the future as a result of this effort will be good for the region and for the entire state of Kansas.

Senate Commerce Committee
January 21, 1997
Attachment 1 thru 1-5

SENATE BILL NO. _____

By

AN ACT creating the Kansas river basin economic development corridor; prescribing the powers and duties of the governing body thereof.

Be it enacted by the Legislature of the State of Kansas:

Section 1. As used in this act, unless the context clearly requires otherwise:

(a) "Corridor" means the Kansas river basin economic development corridor created by section 2.

(b) "Authority" means the Kansas river basin economic development corridor authority.

Sec. 2. There is hereby created the Kansas river basin economic development corridor. The corridor shall be composed of Douglas, Geary, Jackson, Jefferson, Johnson, Leavenworth, Pottawatomie, Riley, Shawnee, Wabaunsee and Wyandotte counties.

Sec. 3. (a) The corridor shall be governed by the Kansas river basin economic development corridor authority which shall be a body corporate and politic and which shall be composed of 26 members as follows: (1) A member of the governing body of each county which is a part of the corridor, who shall be appointed by majority vote of such governing body; and (2) a member of the governing body of one city from each county in the corridor. Such city shall be the city having the greatest population according to the most recent federal census and such members shall be appointed by majority vote of the governing body of each such city; (3) the chancellor of the university of Kansas or the chancellor's designee; (4) the president of Kansas state university or the president's designee; (5) the president of Washburn university; and (6) a member representative of industry in the corridor to be selected by majority vote of the other members of the authority.

(b) The term of each member of the authority initially appointed by a county governing body shall expire concurrently with such member's tenure as a county officer or three years after the date of appointment as a member, whichever occurs sooner. The term of each member succeeding a member initially appointed by a county governing body shall expire concurrently with such successor member's tenure as a county officer or four years after the date of appointment as a member, whichever occurs sooner. The term of each member initially appointed by a city governing body shall expire concurrently with such member's tenure as a city officer or two years after the date of appointment as a member, whichever occurs sooner. The term of each member succeeding a member initially appointed by a city governing body shall expire concurrently with such successor member's tenure as a city officer or four years after the date of appointment as a member, whichever occurs sooner. The term of the member appointed to represent industry shall expire four years after the date of appointment.

(c) In the case of a vacancy on the authority, the vacancy shall be filled for the unexpired term by appointment in the same manner that the original appointment was made. Any member of the authority may be removed for cause by the appointing authority of the authority.

(d) The authority shall select annually, from its membership, a chairperson, a vice-chairperson and a treasurer. The treasurer shall be bonded in such amounts as the authority may require.

(e) The authority may appoint such officers, agents and employees as it may require for the performance of its duties, and shall determine the qualifications and duties and fix the compensation of such officers, agents and employees.

(f) The authority shall fix the time and place at which its meetings shall be held. Meetings shall be held within the corridor and shall be open to the public. Public notice shall be given of all meetings.

(g) The members of the authority shall be subject to the provisions of the laws of the state of Kansas which relate to conflicts of interest of public officers and employees.

(h) If any action at law or equity, or other legal proceeding, shall be brought against any member of the authority for any act or omission arising out of the performance of duties as a member, the member shall be indemnified in whole and held harmless by the authority for any judgment or decree entered against the member and, further, shall be defended at the cost and expense of the authority in any such proceeding.

Sec. 4. (a) The authority shall:

(1) Prepare annually a report on the operations and transactions conducted by the authority during the preceding year. The report shall be submitted to the governing bodies of the counties comprising the corridor, and to the governing body of each city that appoints a member of the authority. The authority shall publish the annual report in the official county newspaper of each of the counties comprising the corridor.

(2) Perform all necessary and incidental functions and duties and to exercise all necessary and appropriate powers not inconsistent with the constitution or laws of the United States or of the state of Kansas to effectuate the same.

(b) The authority may:

(1) Adopt a seal and suitable bylaws governing its management and procedure;

(2) enter into contracts;

(3) sue and be sued;

(4) receive for any of its purposes and functions any contributions or moneys appropriated by counties or cities and may solicit and receive any and all donations, and grants of money, equipment, supplies, materials and services from any state or the United States or any agency thereof, or from any institution, foundation, organization, person, firm or corporation, and may utilize and dispose of the same;

(5) may provide donations, contributions and grants or other

support, financial or otherwise, for or in aid of the economic development of the corridor;

(6) appoint advisory committees composed of members of the general public who have demonstrated interest, expertise, knowledge or experience in economic development. The advisory committees shall make recommendations annually to the authority regarding donations, contributions and grants or other support, financial or otherwise, for or in aid of economic development in the corridor; and

(7) provide for actual and necessary expenses of members of the authority and advisory committee members incurred in the performance of their official duties.

Sec. 5. (a) The authority shall not incur any indebtedness or obligation of any kind. The budget of the corridor shall be prepared, adopted and published as provided by law for other political subdivisions of the state. No budget shall be adopted by the authority until it has been submitted to and reviewed by the governing bodies of the counties comprising the corridor and the governing body of each city represented on the authority.

(b) The authority shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the authority shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the authority.

(c) The accounts of the authority shall be open at any reasonable time for inspection by the counties comprising the corridor, the cities that appoint a member to the authority and other persons authorized by the authority.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

SENATE COMMERCE COMMITTEE
EMPLOYMENT SECURITY TRUST FUND AND SENATE BILL 20
January 21, 1997

Good morning Madam Chairperson and members of the committee, my name is William H. Layes. I am the Chief of Labor Market Information Services, Kansas Department of Human Resources. I appear before you this morning to speak regarding Senate Bill 20 which would extend the current unemployment insurance moratorium through CY1998.

The Kansas Employment Security Trust Fund is used to pay benefits to eligible unemployed claimants and is safeguarded by federal and state statutes. States, however, have wide discretion in the method of employer taxation and in the payment of benefits to eligible claimants.

Is the Kansas Trust Fund Solvent?

The current trust fund stands at \$633.0M. By all measures used to determine adequacy, the Kansas Trust Fund remains one of the most solvent funds in the nation. The fund remains sound even following two consecutive years (1995 and 1996) of zero tax rates for 45,000 Kansas employers.

Recent Kansas Economy

Employment levels in Kansas have remained considerably high in recent times. In fact, the current average annual unemployment rate for 1996 of 4.0 per cent is the lowest average unemployment rate since 1989. Wide spread employment gains have been experienced since the recessionary period 1982-1983. Currently Kansas has recorded annual gains in wage and salary employment of nearly 2.5 per cent since 1984. Dramatic employment increases have been evidenced in the Wichita area, particularly

*Senate Commerce Committee
January 21, 1997*

Attachment 2-1 thru 2-7

in the aircraft industry. These major Kansas employers have added nearly 6,000 jobs in the last year alone. The unemployment rate in Wichita currently stands at 3.6 per cent for November 1996 and a widespread shortage of aircraft workers persists.

Kansas wage and salary employment from November 1995 to November 1996 has increased by 40,000 workers. Goods-producing industries, i.e., construction and manufacturing, have gained by nearly 15,000 workers from November 1995 to November 1996. Employment in service-producing industries, i.e., trade, finance, and services, have risen nearly 24,000 jobs for the same period. The state economy is robust and we see no compelling evidence which would alter this condition. The annual average per cent change in wage and salary employment is shown for the last 25 years by Graph 1. National changes in wage and salary employment has averaged 2.0 per cent during the same period. Kansas averaged 2.3 per cent.

History of Employer Contributions and Benefit Payout to the Unemployment Insurance Trust Fund.

The long range Kansas plan for financing unemployment insurance attempts to balance income with expenditures from the fund. Graph 2 illustrates benefit payments and contributions for the 1970-1995 period. Historically, benefits paid from the trust fund and contributions received have averaged .8 per cent of total wages paid in the state. Current law contains provisions which lowered the income to .4 per cent of total wages.

Effect of Senate Bill 20

SB 20 would continue the same employer moratorium through CY1998. Major

features of Senate Bill 20 include:

1. Zero tax for employers eligible for an experience rating (45,000 employers),
2. New employers received a tax reduction (11,000 employers),
3. Negative balance employers received a reduction in tax rates,
4. Measures are maintained to protect fund solvency.

Graph 3 illustrates the history of the fund since the inception of the moratorium during rate year 1995-1996. At the beginning of the moratorium the trust fund stood at \$723.8M. Most recent trust fund balance for December 1996 is \$640.9M. If the current economic situation continues, (insured unemployment rate of 1.3 per cent and total unemployment rate of 4.0 per cent), we expect the trust fund balance at the end of 1997 to be \$564.7M and \$478.2M by the close of 1998. Should this economic scenario occur the fund will have been reduced by \$246M over the four-year period.

In closing, it is our belief that current reserves can withstand a fourth year of moratorium (through SB 20) without posing a significant risk to the financial integrity of the fund. This assumes, however, that the current economic situation continues with unemployment rates at 20 year lows.

This concludes my testimony, Madam Chairperson. If you or your committee have questions, I would be happy to respond.



WILLIAM H. LAYES
CHIEF OF LABOR MARKET
INFORMATION SERVICES



401 S.W. Topeka Boulevard
Topeka, Kansas 66603-3182

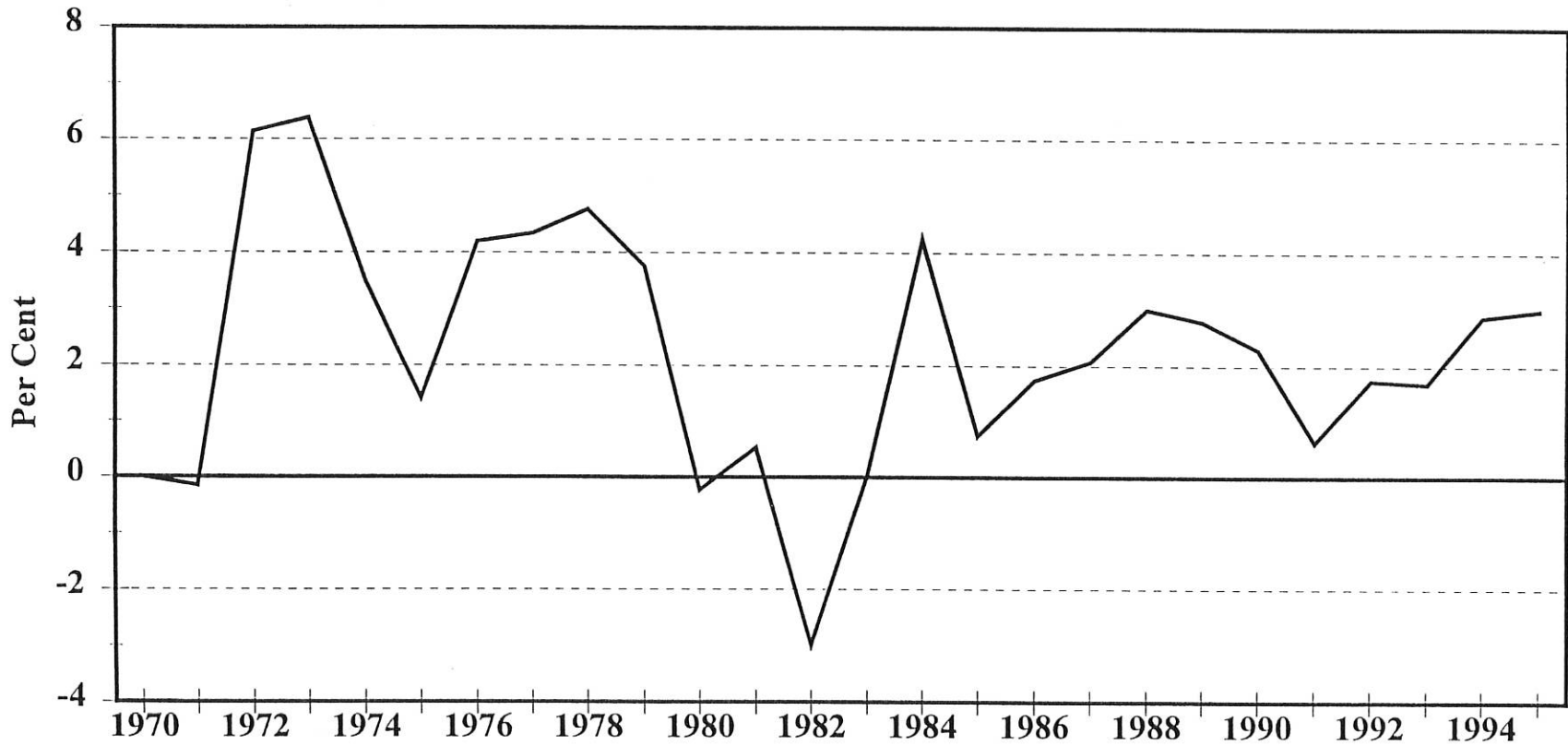
Telephone (913) 296-5058 Fax Number (913) 296-5286

2-3

UNEMPLOYMENT INSURANCE TRUST FUND

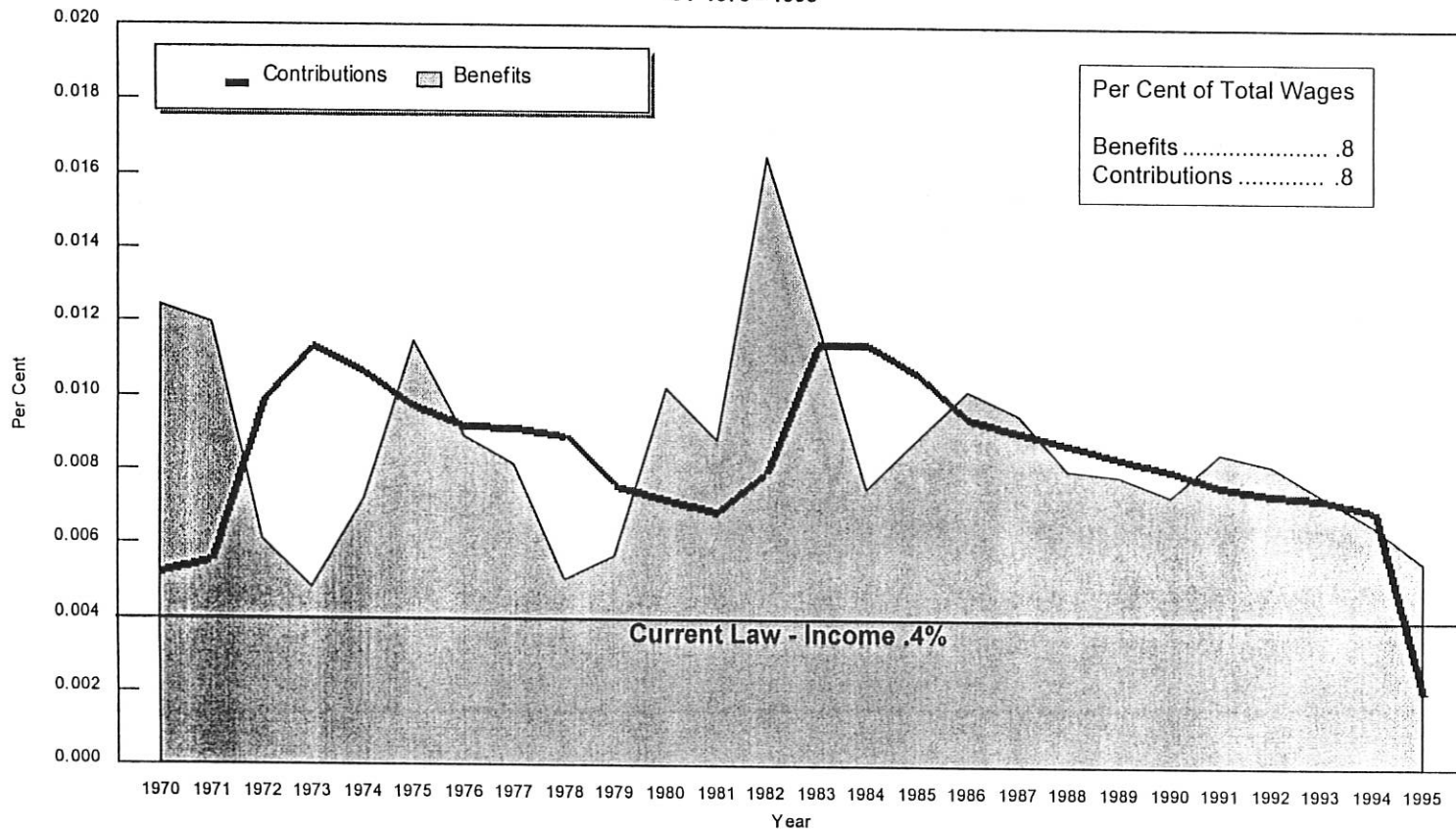
- The trust fund balance at the beginning of CY 1995 was \$723,833,371.
- A moratorium on unemployment taxes for 1995 and 1996 was enacted by the 1995 Legislature; the moratorium was extended to 1997 by the 1996 Legislature.
- The moratorium reduced the rate for the majority of Kansas employers; approximately 45,000, to 0.00 per cent. The rate for new employers; approximately 11,000, was set at 1.00 per cent.
- The moratorium extension reduced rates for negative balance employers; approximately 3,400, to a range of 1.1 to 6.0 per cent.
- The moratorium saved employers an estimated \$93.7M in CY 1995 and \$28.2M in CY 1996.
- The decreased savings in CY 1996 was due to action by the 1995 Legislature which reduced annual income to the fund from employer contributions.
- The trust fund balance at the beginning of CY 1997 was \$640,871,459.
- The fund balance has been higher than projected because unemployment rates have been lower than anticipated.
- It was originally estimated that the fund balance would be about \$500.0M at the end of a three-year moratorium. The revised estimate is \$564.7M, based on a 1.3 per cent insured unemployment rate.
- The fund balance was \$636.0M as of January 11, 1997.

Graph 1
Annual Average Per Cent Change
Wage & Salary Employment
CY 1970 - 1995



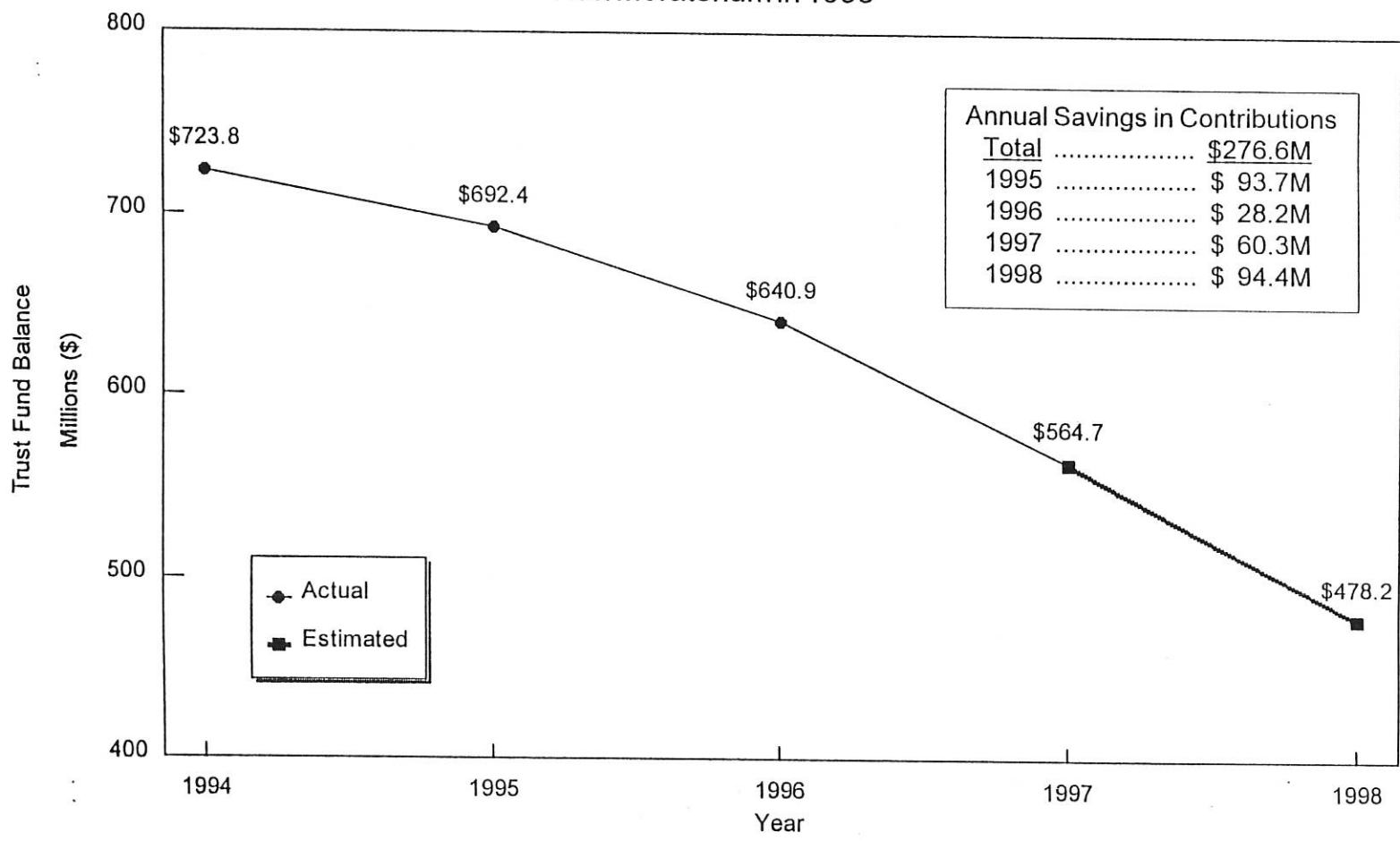
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Graph 2
Contributions and Benefits
as a Per Cent of Total Wages
CY 1970 - 1995



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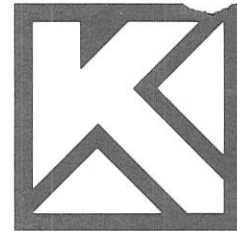
Graph 3
 Recent History of the Trust Fund Balance
 End of CY 1994 - 1996 and Estimated 1997 - 1998
 With Moratorium in 1998



2-7

LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry



835 SW Topeka Blvd. Topeka, Kansas 66612-1671 (913) 357-6321 FAX (913) 357-4732

SB 20

January 21, 1997

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the
Senate Committee on Commerce

by
Terry Leatherman
Executive Director
Kansas Industrial Council

Madam Chairperson and members of the Committee:

My name Terry Leatherman. I am the Executive Director of the Kansas Industrial Council, a division of the Kansas Chamber of Commerce and Industry. Thank you for this opportunity to express KCCI's enthusiastic support for SB 20.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KCCI's members having less than 25 employees, and 86% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

Permit me to explain three points why the Kansas Chamber feels prompt legislative action to extend the unemployment compensation tax moratorium through 1998 is appropriate.

First, the Legislature's recognition and action to reduce unemployment taxes has had a positive impact for Kansas employers. According to analysis performed by the Governor's office, the unemployment tax moratorium will have kept nearly \$375 million in otherwise spent tax dollars in the

*Senate Commerce Committee
January 21, 1997
Attachment 3-1 thru 3-2*

po of Kansas employers through fiscal year 1997. There is little doubt these uncollected t: have been better spent in the private sector than being deposited in the very solvent unemployment benefits Trust Fund. In many instances, these dollars have instead been used on job creation and expansion, equipment improvement and technology upgrades, and debt retirement.

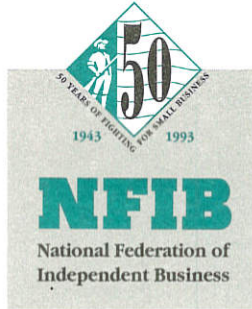
Second, while the merits of the moratorium's past is clear, the key to extending it further is the solvency of the Kansas Employment Security Trust Fund, that employer financed pot of dollars where unemployment benefits are paid. After two years of the moratorium, the condition of the Trust Fund borders on amazing. KCCI and the Kansas Department of Human Resources both predicted the Trust Fund balance would be around \$500 million when testifying before this Committee in 1995 on the expected effect of the original two year moratorium. Instead, the Trust Fund began 1997 with a balance of nearly \$640 million.

By all measures of Trust Fund adequacy, the Kansas Fund remains one of the best stocked in the country. The current Fund balance would pay unemployment benefits at last year's level for four years, and has enough revenue to pay "worst case scenario" unemployment for nearly a year and a half.

A final point regarding SB 20 is KCCI's resolve to closely monitor the condition of the Trust Fund to assure that dollars will be there for individuals deserving unemployment benefits. The tax moratorium is intoxicating. However, KCCI understands that this program can't last forever. We plan to keep up our member education that the moratorium is a temporary recognition of adequate Trust Fund reserves. In the future, KCCI will ask the Legislature to resume unemployment taxes at the lower level established in the original moratorium, in order to maintain the integrity of the Kansas Employment Security Trust Fund, and in the desire to avoid shockingly high unemployment taxes on a business community.

Thank you for the opportunity to present why the Kansas Chamber supports passage of SB 20. I would be happy to answer any questions.

LEGISLATIVE



TESTIMONY

**Testimony of Hal Hudson
Kansas State Director
National Federation of Independent Business
Before the Senate Commerce Committee
on Senate Bill No. 20
January 21, 1997**

Madam chair and members of the Commerce Committee:

My name is Hal Hudson, and I am State Director for the Kansas Chapter of the National Federation of Independent Business.

My purpose in coming here this morning is twofold:

First, I want to endorse and encourage enactment of Senate Bill No. 20, extending the moratorium on contributions to the Kansas employment security fund for another year.

Second, and more important, on behalf of the 8,000 members of NFIB in Kansas, I want to commend and thank each of you who support enactment of this bill, and those who have had a hand in enactment of similar legislation in each of the past two years.

I bring to you no facts or statistics, because I don't believe you require any to be convinced that this legislation is one of the most important, and least expensive to the State, means of stimulating economic development you can enact.

For many of the very small businesses who make up NFIB membership in Kansas, this is not a vital pocketbook issue directly affecting them. Yet, most recognize that the savings of millions of dollars left in the Kansas economy by the moratorium has benefitted everyone.

I urge you to continue the moratorium as long as projected fund balances remain sufficient to meet the requirements of unemployment claims in Kansas.

Thank you.

*Senate Commerce Committee
January 21, 1997
Attachment 4*

TESTIMONY

COMMERCE COMMITTEE

January 21, 1997

Good morning Madam Chair and members of the committee. My name is Reggie Davis and I am the Director of the Division of Employment Security with the Department of Human Resources. I appear before you this morning to provide a briefing on the actions taken by the Employment Security Advisory Council and their recommendations.

For the new members on this legislative committee, I offer the following information. The Employment Security Advisory Council is composed of 12 members, four of whom come from the labor field, four from the employer community, and four from the public sector. The term of appointment for members is four years, and the terms are staggered. The Council recently voted Wayne L. Franklin, Secretary of Human Resources, as Council Chair and myself as Vice-Chair. The Council meets as needed on the call of the Chair. The law states that the council "shall aid the secretary in formulating policies and discussing problems related to the administration of this act and in securing impartiality and freedom from political influence in the solution of such problems".

*Senate Commerce Committee
January 21, 1997*

Attachment S-1 thru S-8

The Advisory Council met several times recently to consider legislative issues concerning the Employment Security law raised by department staff and council members. Their recommendations are as follows and are attached to this testimony in the form of balloon versions of the law or proposed legislation.

1. In its January meeting, the council voted to add language in KSA 44-709 and 44-710(c) which would broaden the means by which claim notices can be delivered to an employer and by which employer information can be returned to the department. The language has been broadened to include such devices as facsimile machines and electronic mail.

2. The council also voted unanimously to forward a conformity proposal which would add a new subsection to KSA 44-718 regarding a food stamp exception.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104-193, was enacted on August 22, 1996. This legislation, popularly known as the "welfare reform" bill, requires that a state food stamp agency must now collect any overissuance of food stamp coupons issued "to a household" by

withholding amounts from unemployment insurance benefits payable to "a member of the household" as provided under Section 13(c) of the Food Stamp Act (FSA), which establishes certain procedures for the food stamp agency. It mandates that state food stamp agencies take an action that previously was optional under the FSA and that was permitted under the Social Security Act.

Since all state laws contain provisions which prohibit the attachment of unemployment insurance benefits, it is necessary that the UI law be amended to accommodate the state food stamp agency. The attached draft language was provided by the U. S. Department of Labor and will assure that UI conformity requirements are met.

Again, for the new members on this committee, federal sanctions can be levied against Kansas if state laws or agency practices are not consistent with federal requirements. Under the Federal Unemployment Tax Act, commonly known as FUTA, which is found in the Internal Revenue Code of 1986, the U. S. Department of Labor levies a tax of 6.2% on employer payrolls. A 5.4% offset credit is extended to Kansas employers as long as the Kansas Employment Security Law remains in conformity with federal legislation.

Federal authorizing statutes are found in FUTA and in Titles III and IX of the Social Security Act. These measures require that each state establish and operate an Unemployment Insurance program which conforms to federal statutes, rules and regulations. Conformity is ensured through the funding process and through the above mentioned offset provisions for Kansas employers. Nonconformity would result in lost employer tax credits and reduced administrative funding.

This concludes my briefing on the actions taken by the Employment Security Advisory Council. We respectfully request that the attached recommendations be introduced in bill form by this committee.

History: L. 1937, ch. 255, § 6; L. 1939, ch. 214, § 3;
 L. 1941, ch. 264, § 4; L. 1945, ch. 220, § 4;
 L. 1947, ch. 291, § 3; L. 1959, ch. 223, § 3;
 L. 1961, ch. 245, § 2; L. 1970, ch. 191, § 4;
 L. 1976, ch. 370, § 60; L. 1979, ch. 159, § 3;
 L. 1980, ch. 148, § 1; L. 1982, ch. 214, § 4;
 L. 1982, ch. 215, § 1; L. 1983, ch. 169, § 3;
 L. 1983, ch. 170, § 2; L. 1984, ch. 184, § 2;
 L. 1985, ch. 176, § 2; L. 1986, ch. 191, § 2;
 L. 1987, ch. 192, § 1; L. 1988, ch. 173, § 1;
 L. 1989, ch. 151, § 1; L. 1991, ch. 146, § 2;
 L. 1992, ch. 74, § 2; L. 1993, ch. 251, § 4;
 L. 1995, ch. 235, § 3; Amended 1996 H.B. 2988, July 1

44-706a. Application of 44-705, 44-706. This act shall only apply to claims filed after April 30, 1961. All claims filed prior to May 1, 1961, shall be governed by the law in effect immediately prior to the effective date of this act.

History: L. 1961, ch. 245, § 3; May 1.

44-707.

History: L. 1937, ch. 255, § 7; L. 1941, ch. 264, § 5;
 L. 1943, ch. 190, § 3; Repealed, L. 1945, ch. 220, § 13; April 5.

44-707a.

History: L. 1951, ch. 307, § 3; Repealed, L. 1955, ch. 251, § 6; July 1.

44-708.

History: L. 1937, ch. 255, § 8; Repealed, L. 1941, ch. 264, § 18; April 20.

44-709. Claims for benefits; filing; determination of; appointment of referees; appeals, time; procedures; board of review, membership, compensation and duties; witness fees; judicial review of order of board. (a) *Filing.* Claims for benefits shall be made in accordance with rules and regulations adopted by the secretary. The secretary shall furnish a copy of such rules and regulations to any individual requesting them. Each employer shall post and maintain printed statements furnished by the secretary without cost to the employer in places readily accessible to individuals in the service of the employer.

(b) *Determination.* (1) Except as otherwise provided in this subsection (b)(1), a representative designated by the secretary, and hereinafter referred to as an examiner, shall promptly examine the claim and, on the basis of the facts found by the examiner, shall determine whether or not the claim is valid. If the examiner determines that the claim is valid, the examiner shall determine the first day of the benefit year, the weekly benefit amount and the total amount of benefits payable with respect to the benefit year. If the claim is determined to be valid, the examiner shall ~~mail~~ a notice to the last employing unit who shall ~~respond~~ send within 10 days by providing the examiner all requested information including all information required for a decision under K.S.A. 44-706 and amendments thereto. The information may be submitted by the employing unit ~~in person at an employment office of the secretary or by mail.~~ , by facsimile machine or by electronic mail. If the required information is not submitted or postmarked

was sent

within a response time limit of 10 days after the ~~mailing date of the~~ examiner's notice, the employing unit shall be deemed to have waived its standing as a party to the proceedings arising from the claim and shall be barred from protesting any subsequent decisions about the claim by the secretary, a referee, the board of review or any court, except that the employing unit's response time limit may be waived or extended by the examiner or upon appeal, if timely response was impossible due to excusable neglect. In any case in which the payment or denial of benefits will be determined by the provisions of subsection (d) of K.S.A. 44-706 and amendments thereto, the examiner shall promptly transmit the claim to a special examiner designated by the secretary to make a determination on the claim after the investigation as the special examiner deems necessary. The parties shall be promptly notified of the special examiner's decision and any party aggrieved by the decision may appeal to the referee as provided in subsection (c). The claimant and the claimant's most recent employing unit shall be promptly notified of the examiner's or special examiner's decision.

(2) The examiner may for good cause reconsider the examiner's decision and shall promptly notify the claimant and the most recent employing unit of the claimant, that the decision of the examiner is to be reconsidered, except that no reconsideration shall be made after the termination of the benefit year.

(3) Notwithstanding the provisions of any other statute, a decision of an examiner or special examiner shall be final unless the claimant or the most recent employing unit of the claimant files an appeal from the decision as provided in subsection (c). The appeal must be filed within 16 calendar days after the mailing of notice to the last known addresses of the claimant and employing unit or, if notice is not by mail, within 16 calendar days after the delivery of the notice to the parties.

(c) *Appeals.* Unless the appeal is withdrawn, a referee, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and decision of the examiner or special examiner. The parties shall be duly notified of the referee's decision, together with the reasons for the decision. The decision shall be final, notwithstanding the provisions of any other statute, unless a further appeal to the board of review is filed within 16 calendar days after the mailing of the decision to the parties' last known addresses or, if notice is not by mail, within 16 calendar days after the delivery of the decision.

(d) *Referees.* The secretary shall appoint, in accordance with subsection (c) of K.S.A. 44-714 and amendment thereto, one or more referees to hear and decide disputed claims.

(e) *Time, computation and extension.* In computing

the benefits paid to any individual whose base period wages include wages for services not covered by the employment security law prior to January 1, 1978, to the extent that the employment security fund is reimbursed for such benefits pursuant to section 121 of public law 94-566 (90 Stat. 2673).

(F) With respect to weeks of unemployment beginning after December 31, 1977, wages for insured work shall include wages paid for previously uncovered services. For the purposes of this subsection (c)(2)(F), the term "previously uncovered services" means services which were not covered employment, at any time during the one-year period ending December 31, 1975, except to the extent that assistance under title II of the federal emergency jobs and unemployment assistance act of 1974 was paid on the basis of such services, and which:

(i) Are agricultural labor as defined in subsection (w) of K.S.A. 44-703 and amendments thereto or domestic service as defined in subsection (aa) of K.S.A. 44-703 and amendments thereto, or

(ii) are services performed by an employee of this state or a political subdivision thereof, as provided in subsection (i)(3)(E) of K.S.A. 44-703 and amendments thereto, or

(iii) are services performed by an employee of a nonprofit educational institution which is not an institution of higher education.

(3) The examiner shall notify any base period employer whose account will be charged with benefits paid following the filing of a valid new claim and a determination by the examiner based on all information relating to the claim contained in the records of the division of employment. Such notice shall become final and benefits charged to the base period employer's account in accordance with the claim unless within 10 calendar days from the date the notice was ~~mailed~~ sent, the base period employer requests in writing that the examiner reconsider the determination and furnishes any required information in accordance with the secretary's rules and regulations. In a similar manner, a notice of an additional claim followed by the first payment of benefits with respect to the benefit year, filed by an individual during a benefit year after a period in such year during which such individual was employed, shall be given to any base period employer of the individual who has requested such a notice within 10 calendar days from the date the notice of the valid new claim was ~~mailed~~ sent to such base period employer. For purposes of this subsection (c)(3), if the required information is not submitted or post-marked within a response time limit of 10 days after ~~the mailing date~~ was sent of the base period employer notice, the base period employer shall be deemed to have waived its standing as a party to the proceedings arising from the claim and shall be barred from

K.S.A. 44-718(f) *Food Stamp Exception*

(1)(a) An individual filing a new claim for unemployment compensation shall, at the time of filing such claim, disclose whether or not he or she owes an uncollected overissuance (as defined in section 13(c)(1) of the Food Stamp Act of 1977) of food stamp coupons. The secretary shall notify the State food stamp agency enforcing such obligation of any individual who discloses that he or she owes an uncollected overissuance of food stamps and who is determined to be eligible for unemployment compensation.

(b) The secretary shall deduct and withhold from any unemployment compensation payable to an individual who owes an uncollected overissuance--

(A) the amount specified by the individual to the secretary to be deducted and withheld under this clause,

(B) the amount (if any) determined pursuant to an agreement submitted to the State food stamp agency under section 13(c)(3)(A) of the Food Stamp Act of 1977; or

(C) any amount otherwise required to be deducted and withheld from unemployment compensation pursuant to section 13(c)(3)(B) of such Act.

(c) Any amount deducted and withheld under this section shall be paid by the secretary to the appropriate State food stamp agency.

(d) Any amount deducted and withheld under subsection (b) shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by such individual to the State food stamp agency as repayment of the individual's uncollected overissuance.

(e) For purposes of this section, the term "unemployment compensation" means any compensation payable under this Act including amounts payable by the secretary pursuant to an agreement under any Federal law providing for compensation, assistance, or allowances with respect to unemployment.

(f) This section applies only if arrangements have been made for reimbursement by the State food stamp agency for the administrative costs incurred by the secretary under this section which are attributable to the repayment of uncollected overissuances to the State food stamp agency.