

Approved: 3/15/10

Date

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE

The meeting was called to order by Chairman Steve Brunk at 9:04 a.m. on February 11, 2010, in Room 784 of the Docking State Office Building.

All members were present except:

Representative Delia Garcia- excused
Representative Bob Grant- excused

Committee staff present:

Art Griggs, Office of the Revisor of Statutes
Rena Jefferies, Office of the Revisor of Statutes
Jerry Donaldson, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Stephen Bainum, Committee Assistant

Conferees appearing before the Committee:

Richard Cram, Department of Revenue
Rachelle Columbo, The Kansas Chamber
Dina M Cox, Kansas Society for Human Resource Management
Phillip M Hayes, The Arnold Group
Bill Goodlatte, The LDF Companies
Natalie Bright, Wichita Independent Business Association
Jim Garner, Kansas Department of Labor

Others attending:

See attached list.

The Chairman introduced his intern Zach Goodman.

The Chairman opened the hearing on **HB 2664**.

HB 2664 **Income tax credit for certain taxpayer payments to the employment security fund**

Richard Cram, Department of Revenue, presented testimony in opposition to **HB 2664** (Attachment 1). The Department's main concern is that it would cause a rapid decline in revenue for the state at a time when the State is faced with a revenue shortfall of over \$400 million for the FY 2011 budget. In addition the changes would require over 2500 hours of computer updates and 960 hours of testing at great expense to the State.

Representative Suellentrop said that we need to give employers across the state some tax relief. Richard replied that the State does not have the revenue to do this and balance the budget.

The Chairman opened the hearing on **HB 2676**.

HB 2676 **Employment security law; contribution rates option; no penalties or interest up to 90 days late**

Rachelle Columbo, The Kansas Chamber, gave testimony as a proponent of **HB 2676** (Attachment 2). The bill still increases tax rates over what was required in 2009, but it better reflects earned experience ratings. Employers tax rates would be refigured relative to their experience rating as intended in our current statute, but the tax rate would stay constant for rate groups. **HB 2676** provides reasonable relief for businesses even as it increases contributions into the fund in 2010.

Representative Quigley said that you are freezing the rates but allowing movement between the rates. Rachelle said yes, experience could move them to another Rate Group but their Contribution Rate would stay the same for 2011.

Representative Brunk said he hoped there was not confusion with **HB 2676**. It would allow them to choose

CONTINUATION SHEET

Minutes of the House Commerce and Labor Committee at 9:04 a.m. on February 11, 2010, in Room 784 of the Docking State Office Building.

a rate for two years, 2010 and 2011. Rachele said that they would choose for a two year period. They could not choose their rate from one rate chart and then choose the other rate chart the next year.

Rena Jefferies provided an explanation of the changes that **HB 2676** would make (Attachment 3).

Dina M Cox, Kansas Society for Human Resource Management, presented testimony as a proponent of **HB 2644** and **HB 2676** (Attachment 4). Both bills are helpful to the employers in the state of Kansas.

Representative Jack said that **HB 2676** came about from a group getting together two weeks ago. My previous bill did not solve the problem so we tried to think of another way we could get 2010 relief without putting pressure on the State general fund. We felt if we gave the employers the option of choosing between the Tax Rate charts that it would give them some relief. Also there would be an extension of 90 days without interest for payment of the contribution.

Representative Brunk asked for an explanation of the 90 day extension. The Department of Labor indicated that the penalty was for not filing on a timely basis. Representative Jack indicated that they would still have to file their reports at the appointed times but they would not have to pay interest for not paying the complete contribution with the report.

Phillip M Hayes, The Arnold Group, presented testimony as a proponent of **HB 2676** (Attachment 5). He said that going back to the 2010 Original Tax Rate restored some respectability to the UI taxes. It does give some immediate relief. He mentioned several options that could be pursued to give more relief.

Bill Goodlatte, The LDF Companies, gave testimony as a proponent of **HB 2676** (Attachment 6). He said that he was in the beer and burger business. They distribute Coors and other brands and have 20 restaurants throughout Kansas. They have never had a layoff, yet this year their UI tax rate went up over 500%. He said that sometimes they do have to fire someone for not doing their job, or they quit or do not show up or they steal from us or get into fights. Most of them apply for and get UI benefits even though we contest and appeal every case.

Representative Schwab asked what Texas and Oklahoma were doing that we should do to bring businesses north. Bill said that the biggest thing was the tax rate. It went up only 200% in Oklahoma. The other things are the benefit levels and the claims bias in favor of the claimants. In Oklahoma and Texas they are winning their appeals against employees.

Natalie Bright, Wichita Independent Business Association, gave testimony in support of **HB 2676** (Attachment 7). She said that Kansas has a huge cash flow problem with UI benefits and that Kansas had the highest rate of paying unqualified benefits. There are two concerns this year. First is helping employers get through the huge increases and the second is benefit reform. She indicated that a survey of their members indicated that they have not laid people off. They have cut everywhere they can to avoid layoffs. Yet they still had up to 1000% increase in their UI tax.

Jim Garner, Kansas Department of Labor, presented testimony as neutral on **HB 2676** (Attachment 8). He commented about the service at the Department of Labor. Because of the huge spike in claims they have had to hire new employees and not all of them are trained throughly. They are undergoing mandatory overtime and many are volunteering for work on holidays.

In response to the Post Audit they have established an automated registration for the Workforce Center.

In regard to some relief for employers there is a long standing statutory procedure for how rates are determined. The two big factors contributing to the increased rates are the decrease in the Trust Fund which increases the amount that has to be collected and the fact that we were on reduced rates for the last three years.

Regarding the payment of interest on money borrowed from the Federal Government for UI benefits, it cannot be paid through regular unemployment taxes. There has to be a separate source for that fund. There is no interest assessed for funds borrowed in 2010. Interest will start accruing on January 1, 2011. The first

CONTINUATION SHEET

Minutes of the House Commerce and Labor Committee at 9:04 a.m. on February 11, 2010, in Room 784 of the Docking State Office Building.

payment on interest will have to be made by September 30th, 2011. If Kansas does not meet that payment then the entire FUTA credit the employers receive would be denied for that year.

Representative Brunk said that if we pursue **HB 2676** and businesses are allowed to choose which rate chart they use, that would still allow you to do your rate calculation for 2011 wouldn't it.

Secretary Garner said giving employees options produces delays. It is better to go to the prior rate. It would be much quicker to just go back to the unadjusted rate because this has to be done by 3/31/10.

Representative Brunk asked how much lead time do you have to have. Secretary Garner said he needed to consult with staff on that question.

Representative Suellentrop asked what the current rate was for borrowed funds. Secretary Garner said the current rate was either 4.3 or 4.6% and it is a special rate set by the US Treasury Department strictly for advances to other units of government.

The hearings on **HB 2664** and **HB 2676** were closed.

The next meeting is scheduled for February 12, 2010.

The meeting was adjourned at 10:34 a.m.

COMMERCE & LABOR COMMITTEE

DATE: 2-11-10

| NAME | REPRESENTING |
|---------------------|--|
| Rachelle Colombo | KS chamber |
| Richard Cron | ICDOR |
| Dina Cox | KS SHRM |
| TED HEALY | CAPITOL STRATEGIES |
| Christy Phlieger | KS SHRM Glassman Corporation |
| Sharon Martin | mme Corp / KS SHRM |
| Janet Super | mme Corp / KS SHRM |
| Nancy Stucky + Dave | Kingman Community Hospital / KS SHRM |
| Duy Pham | Rep. Ruiz's intern |
| JUDITH GARD | CAPITOL ADVANTAGE |
| Donna Weber | KS SHRM |
| Joyce Campbell | KS SHRM / IMA of Kansas |
| Andrea Metcalf | KS SHRM / The Key Element, Inc. |
| Shirley Hemme | KS SHRM / AIB International |
| Sandy Wedel | " " Eto City Medical Ctr |
| Nevada Wayland | KS SHRM / Christian Foundation For Children + Aging KC, KS |
| Angela Dailey | KS SHRM / Brewster Place Topeka KS |
| AMANDA ROPAR | KS SHRM / PROFESSIONAL ENG. CONSULTANTS |
| Tasha Holtzman | KSSHARM / Prairie Band Casino + Resort |
| MIKE WALDMAN | KSSHARM / BCBS of KANSAS |
| Andrea Johnson | KSSHARM / Bethany Home |
| Betty Small | Kssharm / Central Ks Mental Health Center |
| Mindy McPheeters | KS SHRM / SHRM-Wichita |
| TRACEY FAULKNER | KS SHRM / SCHOLFIELD AUTO WRENIA |
| Ruth Bealer | KS SHRM / Great Bend Regional Hospital |

COMMERCE & LABOR COMMITTEE

DATE: 2-11-10

| NAME | REPRESENTING |
|------------------|---|
| Linda Miller | KS SHRM / Flame Engineering - La Crosse |
| Deborah Fedleman | KS SHRM / Firstsource Solutions |
| Laurie Pitman | KS SHRM / Newman Reg. Health |
| Kathy Drear | KS SHRM / Newman Reg. Health |
| Benea Dennison | KS SHRM / Century Health Solutions |
| Ashley Shurard | Lenexa Chamber |
| KEN DANIEL | TIBA |
| Ken Bruning | OP Chamber |
| Phil Hayes | The Arnold Group - Wichita, KS |
| BILL GOODLATTE | LDF |
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House Commerce and Labor Committee

Richard Cram

February 11, 2010

Testimony in Opposition to House Bill 2664

Representative Brunk, Chair, and Members of the Committee:

House Bill 2664 would provide a new tax credit for unemployment insurance contributions, not to exceed the difference between contributions to the state employment security fund under K.S.A. 44-710 for the 2010 rate computation under the 2010 adjusted tax rate computation table and under the original tax computation table. The credit is nonrefundable and carry-forward-able for up to five years. The Department of Insurance indicates that the difference in contributions for FY 2011 is estimated to be \$43.5 million. This would be the amount of anticipated non-refundable tax credits. Because the credits are non-refundable, not all taxpayers may have sufficient tax liability to claim the credits against. For FY 2011, we estimate that approximately 60% of the non-refundable credits would actually be claimed against tax liability. The negative fiscal impact to the state general fund from this proposal, if enacted, is estimated to be \$26 million. Our fiscal note is attached.

As we are seeing now, income tax receipts can rapidly decline during a recession, and the revenue picture can change drastically in a hurry. Like sales tax exemptions, tax credits also shrink the tax base. Since 1985, the number of tax credits has increased from 6 to 43. The State's lost revenue from tax credits has increased from \$410.2 million in tax year 2003 to \$594.2 million in 2007.

This proposal creates yet another new tax credit—an extremely generous one, for 100% of the above contributions. At a time when the State is faced with a revenue shortfall of over \$400 million for the FY 2011 budget, a proposal such as this one merely makes that problem much worse. The State simply cannot afford this.

House Commerce & Labor

Date: 2-11-10

Attachment # 1

2010 House Bill 2664b Fiscal Note

Introduced as a House Bill

Brief of Bill

2010 House Bill 2664, as introduced, would create a new tax credit against a taxpayer's income, privilege or premium tax for tax year 2010 and thereafter in an amount equal to the amount of unemployment insurance contributions actually and timely paid by the taxpayer. The amount of this tax credit for any one tax year shall not exceed the difference in the amount of contributions to the state employment security fund on account of employment under K.S.A. 44-710, and amendments thereto, paid by the taxpayer as required pursuant to the taxpayer's rate computation determined by the 2010 adjusted tax rate computation table and the amount of such contributions that the taxpayer would have paid pursuant to the taxpayer's rate computation determined by the 2010 original tax computation table.

If the amount of the tax credit allowed by this section exceeds the taxpayer tax liability for the taxable year, the amount which exceeds the tax liability may be carried over for deduction from the taxpayer's tax liability in the next succeeding taxable year or years until the total amount of the tax credit has been deducted, except that no such tax credit shall be carried over for deduction after the fifth year succeeding the taxable year in which the contribution is made.

The bill shall be effective after its publication in Kansas statute book.

Fiscal Impact

House Bill 2664 creates a tax credit in the amount of the difference in unemployment insurance (UI) tax payment made by a taxpayer as a result of tax rate compression. According to KDOL, the difference in UI tax payments based on unadjusted and the adjusted unemployment insurance tax rate schedule is estimated to be \$43.4 million for tax year 2010. Since this is non-refundable credit with 5 year carryforward, we would assume about 60% of that amount would actually be claimed in FY 11 and the remainder be carried forward in the next 5 years. Based on these information, the fiscal impact is listed below;

| FY | Fiscal Impact (millions) |
|------|--------------------------|
| 2011 | -\$26.10 |
| 2012 | -\$29.58 |
| 2013 | -\$33.06 |
| 2014 | -\$36.54 |
| 2015 | -\$40.02 |
| 2016 | -\$43.50 |

Passage of this bill would reduce state general fund by \$26.1 million for FY 2011.

Administrative Impact

The Department of Revenue needs to update instruction for the IP, FP, CP and PTP; develop a new credit schedule; add a new line to the K-120 Part I and K-130 Part III; update Channel

E-File and ATP E-File/Web for 1 new credit schedule; update new credit for ATP Credit Database; update line items for Web File; and modify channel edits and ATP RP edits for new credits for both paper and E-File/Web-File.

The estimated IS resources necessary to implement this bill are 2,532 hours of APA time. The estimated user testing resources necessary to implement the bill are 960 hours of MSAI time. In order to handle the increased volume of taxpayers that could claim this credit, the department also needs to hire three CR Specialist with annual salary at \$166,386. The one time other operating expenditures is estimated to be \$13,290 and the annual other operating expenditures would be \$2,385. At \$90/hour contract rate, the total administrative costs is \$496,341, with recurring cost at \$168,771.

Administrative Problems and Comments

None.

Taxpayer/Customer Impact

None.

Legal Impact

None.



Legislative Testimony

HB 2676

February 11, 2010

House Commerce and Labor

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

Submitted on behalf of the Kansas Business Coalition on Unemployment Insurance: The Kansas Chamber; National Federation of Independent Business; The Wichita Chamber; The Overland Park Chamber; Wichita Independent Business Association; Society of Human Resource Managers, Kansas; Protection One; Kansas Cooperative Council; Kansas Grain and Feed Association; Kansas Agribusiness Retailers Association; The Lenexa Chamber; Retail Grocers Association of Greater Kansas City; Kansas Food Dealers Association; Kansas Restaurant and Hospitality Association; Home Builders Association of Greater Kansas City; Adecco Staffing, Kansas; Americans for Prosperity; The Kansas Livestock Association; Amarr Garage Doors; Pittsburg Area Chamber; Associated General Contractors of Kansas;

Chairman Brunk, members of the committee, thank you for allowing me to provide testimony in support of HB 2676.

HB 2676 allows employers the option of utilizing the original tax rates computed by the Kansas Department of Labor (KSDOL) or the adjusted rates as they were assessed in December of 2009. The option provided in HB 2676 improves upon the merits of HB 2644 by making the reduced rate optional so employers could weigh the cost benefit of changing payroll systems mid-year. This bill also waives penalties and interest earned on past due quarterly contributions that are paid in full by the close of calendar year 2010.

The KSDOL has estimated that reverting to the 2010 original rate schedule would reduce contributions to fund by \$43 million if all employers opted to utilize the original rate. \$43 million is roughly 10% of the total planned yield for 2010 that was shifted to positively balanced employers with experience ratings that did not warrant the maximum tax rate.

The employers who held on to employees through our nation's worst recession should not be penalized with the maximum tax rate, subsidizing those employers who did not maintain employment.

HB 2676 still increases tax rates over what was required in 2009, but it better reflects earned experience ratings. Allowing employers the option of better managing their cash flow by spreading out their payments over the year provides relief for the lack of preparation businesses had for such significant increases.

By implementing the tax rates for a two year period, businesses can better plan for their unemployment taxes in 2011. Employers tax rates would be refigured relative to their experience rating as intended in our current statute, but the tax rate would stay constant for rate groups. So an employer who laid off a significant number of employees in 2010 may move to a new rate group but the prescribed rate for that group would remain the same. Employers could see an increase or decrease in 2011 if their experience rating shifts, as required by federal regulation on the computation of experience rating and subsequent tax rates.

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 according to the National Association of State Workforce Agencies.

The Kansas business community needs relief in order to maintain current employment and recover so that our economy can stabilize

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 as proposed in HB 2676.

HB 2676 provides reasonable relief for businesses even as it increases contributions into the fund in 2010. The Kansas Coalition on Unemployment Insurance supports HB 2676; please vote "yes" to pass this bill out of committee. Thank you for the opportunity to offer these comments today.

House Commerce & Labor
Date: 2-11-10
Attachment # 2

Office of Revisor of Statutes
300 S.W. 10th Avenue
Suite 010-E, Statehouse
Topeka, Kansas 66612-1592
Telephone (785) 296 -2321 FAX (785) 296-6668

MEMORANDUM

To: House Committee on Commerce and Labor
From: Renae Jefferies, Assistant Revisor
Date: February 11, 2010
Subject: HB 2676

HB 2676 concerns amendments to two statutes relating to Employment Security Law. Section 1 amends K.S.A. 44-710 on page one, lines 32 through 37, to provide that contributing employers for calendar years 2010 and 2011 shall have an option of paying the 2010 adjusted tax rate or the 2010 original tax rate computed by the Department of Labor. The amendment in essence, freezes the contribution rate for 2010 as the tax rate for the year 2011

On page 10 of the bill, lines 40 through 43, amend K.S.A. 44-717 to allow a contributing employer up to 90 days past the due date to file a wage report on contribution without being charged a penalty or interest. However, once the 90 day period has passed, the provision of the section regarding penalties and interest apply.

The bill becomes effective upon publication in the Kansas Register.

Legislative Testimony
House Commerce and Labor Committee
February 11, 2010

Dina M. Cox, SPHR, Kansas Society for Human Resource Management Legislative Director

Good morning, Chairman Brunk and members of the committee. My name is Dina Cox and I am speaking on behalf of the Kansas Society for Human Resource Management. Before I begin, I would like to thank all of you for your service to the State of Kansas during a particularly difficult time. The decisions you have before you are extremely complex and most of you will probably feel a wave of relief when the session is over. We recognize your challenges and want you to know that we appreciate your hard work and devotion to making Kansas a great state in which to live and raise a family.

The Kansas Society for Human Resource Management (KS SHRM) is in favor of HB 2644 and HB 2676 relating to unemployment insurance. These bills provide some practical relief to the businesses in which our members work. We believe that while these bills are not the total solution, they are an important step toward working together with employers who were caught off guard with the recent rate increases.

The Department of Labor began talking about the unemployment insurance trust fund depletion in mid 2009. On August 28, 2009, I attended a meeting with Secretary Garner, the assistant secretary, Ms. Natalie Bright and Ms. Marlee Carpenter. During this meeting, we wanted Secretary Garner to know that KS SHRM was willing and able to assist the department in any way possible to help find solutions. We specifically asked the secretary to distribute the rate increase information as early as possible so that employers could adequately budget for them rather than guesstimate rates. Unfortunately, rate increase notices were not received until late December, long after most employers had finalized budgets.

The result of the late notice and the greater than expected increases puts many employers in a quandary: where do they find the extra money to cover the rate increase? Do they continue hiring freezes? Do they eliminate positions? Do they eliminate a product line? Do they delay production of a product and thus not hire the extra workers they would have needed? All of these choices only add to an economic downward spiral and further stress the unemployment trust fund.

HR 2644 and 2676 are helpful to the employers in the state of Kansas and thus the thousands of employees who work for them. KS SHRM supports passage of these two bills.

Thank you for the opportunity to speak to you today. I will be happy to answer any questions you have.

House Commerce & Labor
Date: 2-11-10
Attachment # 4



**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](#)

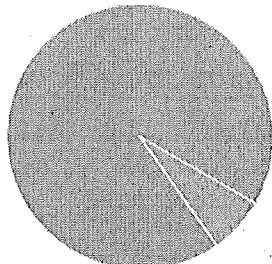
| | Response Percent | Response Count |
|--------------|------------------|----------------------------|
| Yes | 8.9% | 13 |
| No | 93.1% | 175 |
| Hide replies | | Other (please specify): 20 |

- 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 9:58 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 2:48 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 12:45 PM [Find](#)

25 responses per page

answered question 180
skipped question 8

93.1% (175)



8.9% (13)

8.9% (13)

5-2

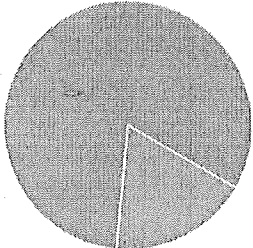
2. Concerns have been raised that businesses have already set up their 2010 payroll systems and will not want to adjust midstream. Would that be your position? Create Chart Download

| | Response Percent | Response Count |
|---|------------------|----------------|
| Yes | 18.2% | 34 |
| No | 81.8% | 153 |
| hide replies Other (please specify) | | 30 |

- | | | |
|--|---------------------------|----------------------|
| 1. For a rate reduction, we would make it happen | Tue, Feb 9, 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 they'd say it is a 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 is simply a simple rate adjustment. | Fri, Feb 5, 2010 8:27 AM | Find |
| 10. Better earlier than later. | Thu, Feb 4, 2010 9:10 PM | Find |
| 11. It is the significant increase in the rate that causes a budgeting problem more than a payroll system problem. | Thu, Feb 4, 2010 6:31 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. 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 is 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 payroll 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 1:36 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, NA, 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 in midstream. | Thu, Feb 4, 2010 1:05 PM | Find |
| 29. 1% - subcontracting employer | Thu, Feb 4, 2010 1:05 PM | Find |
| 30. It is 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 for them. They would just let us know when there is an upgrade to load. | Thu, Feb 4, 2010 1:03 PM | Find |

25 responses per page

answered question **187**
skipped question **9**



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% *all claimants.*
3. 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.
4. 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
5. KS Work Share Participants – prevent participants in the KS Work Share Program from receiving the \$25 additional Fed emergency benefit
6. Prevent employees that elect retirement (early or traditional) from receiving and KS UI benefits

2a. Reinstate waiting week requirement for all claimants.

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

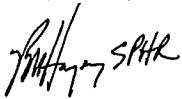
1. Identify predictive indices to allow the state to better forecast the solvency of the trust fund
2. Report the number of employers in each rate group with total taxable wages, expected yield and anticipated utilization rate/amounts.

5-4

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

5-5

Testimony for the KS House Commerce 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

House Commerce & Labor
Date: 2-11-10
Attachment # 6



Wichita Independent Business Association

THE VOICE OF INDEPENDENT BUSINESS

**House Committee on Commerce and Labor
Testimony regarding HB 2644, HB 2664 and HB 2676**

By Natalie Bright

February 11, 2010

Chair Brunk 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. HB 2644 attempts to provide relief to employers, the mechanism would not provide relief until their 2011 taxes are paid. This is relief "too late" for many employers who do not have the cash flow to pay the full amount. While WIBA supports all measures before you today because they attempt to reduce impact of the 2010 assessed rates, our members prefer the mechanism set out in HB 2644 and HB 2676, which provides immediate relief in 2010.

HB 2644 and HB 2676 propose to assess the original 2010 tax rates computed by KDOL, which provides some rate relief for positively balanced employers, though not all. Additionally, both bills grant forgiveness of penalties and interest earned on past due quarterly contributions if amounts paid by a date certain. Currently, positive balanced employers in 29 of the 51 rates groups are being penalized with the maximum tax rate and subsidizing negatively balanced employers. HB 2676 is WIBA's preferred because it give employers the option to chose which rate to pay, original or adjusted rate. 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.

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

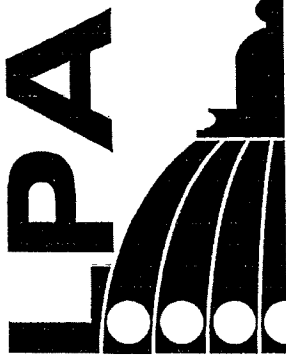
445 N. Waco Street / Wichita, KS 67202-3719

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

House Commerce & Labor

Date: 2-11-10

Attachment # 7



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.

The Legislative Post Audit Committee is a bipartisan committee comprising five senators and five representatives. Of the Senate members, three are appointed by the President of the Senate and two are appointed by the Senate Minority Leader. Of the Representatives, three are appointed by the Speaker of the House and two are appointed by the Minority Leader.

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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LEGISLATIVE DIVISION OF POST AUDIT

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Barbara J. Hinton, Legislative Post Auditor

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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

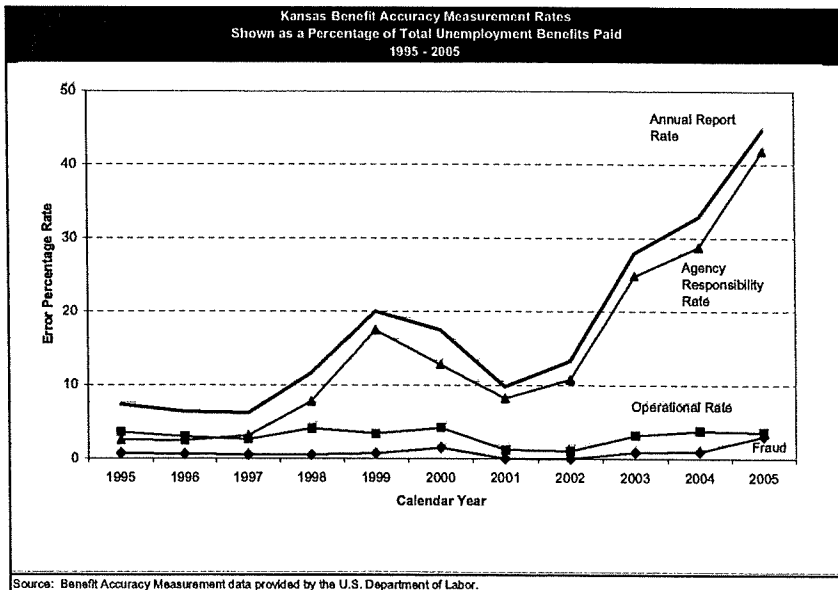
LEGISLATIVE DIVISION OF POST AUDIT

Overview of the Unemployment Insurance Program

The purpose of the unemployment insurance program is to replace 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. page 3

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.

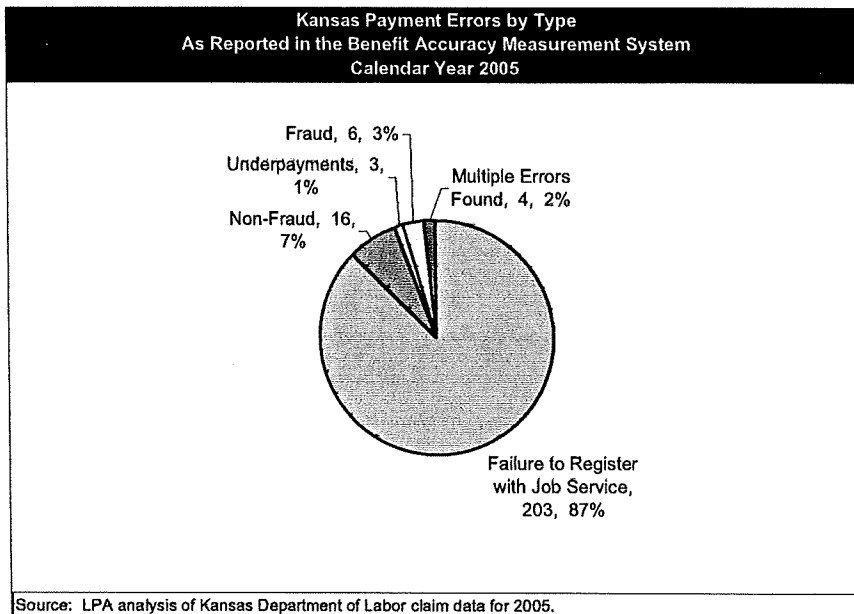
According to reports published by the U.S. Department of Labor, Kansas has the highest overpayment error rate of any state in the nation. The U.S. Department of Labor conducts an annual study that's designed to assess the accuracy of unemployment benefit payments. The federal agency analyzes payment 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. page 5



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

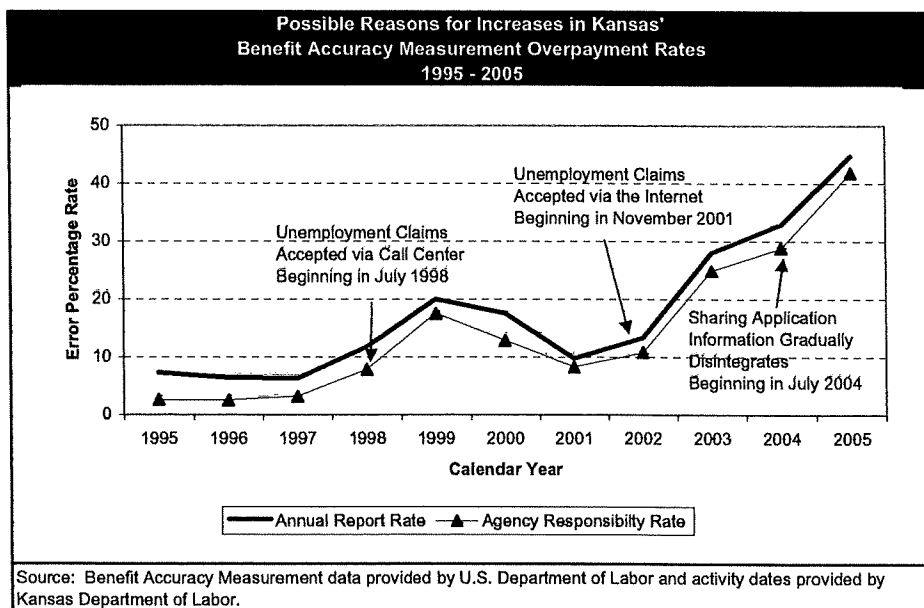
The State doesn't have a strong incentive to bring its high overpayment error rate down because the federal government doesn't levy any financial penalties. Federal law doesn't allow U.S. Department of Labor officials to assess penalties or fines against states that have higher-than-average error rates.

..... 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 Doebelin. 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.



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 | |

House Commerce & Labor

Date: 2-11-10

Attachment # 8



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 | | | |
|-------------------------|-----------------|----------------------|-------------|
| Year | Basic Reduction | Additional Reduction | FUTA Rate |
| 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 | | |
|--|----------------|------------------------|
| Year | FUTA Reduction | Baseline Model* |
| 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.