

MINUTES OF THE SENATE BUSINESS AND LABOR COMMITTEE

The meeting was called to order by Chairperson Susan Wagle at 8:30 a.m. on February 2, 2010, in Room 548-S of the Capitol.

All members were present.

Committee staff present:

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

Conferees appearing before the Committee:

Mr. Jim Garner, Secretary, Kansas Department of Labor

Others attending:

See attached list.

An overview of the Kansas Unemployment Rate Assessments as they relate to positive and negative balance employers

Upon calling the meeting to order, Chairperson Wagle called on Mr. Jim Garner, Secretary, Kansas Department of Labor, who stated his handout was the material the Chair had requested during the Senate Business & Labor Committee meeting of January 26, 2010. He went on to say that the charts he offered were breakdowns of all the positive and negative balance employers, their history, and what they have paid into the trust fund. A copy of his handout is (Attachment 1) attached and incorporated into the Minutes as referenced.

He referred the Committee to page 2 which showed the 51 rate groups for positive balance employers, the range of the reserve ratio, what their tax rate is going to be for this year, the number of employers in that particular tax group, and for those employers who are in that tax group, what is the cumulative amount of money that has been paid out in benefits and the amount of taxes or contributions paid by those employers into the trust fund, for the life of those particular businesses. He went on to say that on page 3, the exact same thing is offered for the negative balance employers, each surcharge level.

The Chair also asked is it federal law that says that you have to at least charge 5.4% as the maximum rate for any employer, and can states go higher? Answer: As part of the Federal Unemployment Tax of 6.2%, the federal law allows you a credit of up to 5.4% if you have a tax law that charges at least 5.4% in your system and to get the maximum credit on the federal tax you have to have a tax of at least 5.4%. The State allows you to add up to 2% surcharge on a negative employer which is set out in statute.

The Chair asked if we were looking at possibly increasing the 2% to a negative employer, how would this affect your charts? Answer: 9% of the employers are negative balance employers, positive balance employers are 75% of all the employers that are in the system. Senator Brownlee asked why these numbers do not add up to 100%? Answer: Because the new employers just have the flat rate of 6%.

The Chair asked, if you take the contributions paid in by both the positive and negative, and subtract the benefits paid out, there is a difference of \$572M, where is it going? Answer: Government rated or reimbursing employers, and new employers are not reflected here and these benefit charges and contributions paid include the entire history of employers who are in those categories, since unemployment insurance has existed.

The Chair also asked, if there is any other big drain on the system? Is any of this used for administration? Answer: Administration funding comes from a grant fund from the U.S. government, completely separate from the UI Trust Fund.

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Senator Kelsey asked how much heartburn would it cause the system if we were to let them pay 50% of that by April 30 and 50% by May 15, in other words split that in half, for cash flow purposes, without a penalty and is that something that can be done administratively or do we need legislation on that? Answer: The KDOL is looking at what parameters and/or restrictions there may be on this and should have some information by the end of the week. Secretary Garner said the two main factors they need to look at for this approach is:

- 1) They still have to have a quarterly rate report sent in;
- 2) A key date is July 31 and they need to have reports filed because they figure each employer's experience rating based on what they paid in and what has been paid out on their account by July 31.

The Chair stated this was why she went with this type of system because most people had already purchased their payroll software .

Senator Holland asked to what extent has the KDOL reached out to their peers in other states, have they done any analysis as to what other states have done to address this issue, and have they looked at how it works in contrast with Kansas? The Chair asked the KDOL for a report of what various states are doing to help build their trust funds back up and how are they treating their two groups. Secretary Garner said he would also share a report from the National Association of State Workforce Agencies (NASWA), of a survey they took in December of last year, of what states have been doing. NASWA is basically the Labor Secretaries of all of the states.

The Chair recognized Senator Brownlee who stated one thing that concerns her is the downward trend throughout 2009 and it seems like the delta probably did not change throughout the year and you could probably tell by by July 1 or Aug 1 we were going to run out of money. Who did the KDOL talk to at that time, did they have a response, and could they have reacted sooner, maybe in the fall? Answer: Secretary Garner said based on where the trust fund was sitting on 7-31, we knew then , so the first week of August he did a news release letting people know it was likely KDOL was going to exhaust the funds and with copies being sent to the Legislature. He went on to say, at that time he thought it was going to go much faster, by mid-November and began convening the ESAC, which statute is charged with issues resolving the trust fund, who met frequently throughout the fall. One of the topics that has been brought up in earlier meetings he said, is should we look at a way to do a more reactive approach to the tax system? Lastly, he stated, when you have a significant change of events it is very slow to react.

Senator Lynn told of a business that used to be on the Missouri side and lost all of their dollars in the Missouri Unemployment Fund when they moved to Kansas. Why can't they transfer these dollars to Kansas and if there was transferability would it have an impact? She said it might help the Fund and might be an economic development incentive. Answer: Secretary Garner said this is a federal/state system and there may be federal requirements of why this is done that way, but said he would check into this.

The Chair would like to know:

- 1) How the balances look on the new employers, and are they negative or positive?
2. Is there a government-rated group and are they a drain on the system?
3. When will the Committee be getting any recommendations from ESAC and is there a time line? (She asked when KDOL receives them, that copies be sent to her so she can distribute to the Committee.

The Chair thanked Secretary Garner and announced he was leaving for another meeting, but asked if there were any more questions? As there were none, she stated the Committee had two bills in the works:

- 1) Rasing the wage base which does help alleviate the payments to the smaller businesses who are paying the full tax on their employers who are lower wages.

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2.) Takes away penalties and interest for one quarter on each payment due.

She asked the Committee to look at testimony given to the Senate Business & Labor Committee meeting of January 27th from the Arnold Group, page 4, offering a list of mid-west states and what KS is paying out in benefits compared to 16 other states. She went on to say that she has received a number of complaints from businesses who cannot fill their lower wage jobs because people are making more money on unemployment especially since it has been extended.

The Chair offered two options to consider:

1.) Putting a cost of living increase cap back on the benefit payments.

2.) Increasing the surcharge on negative balance employers which is now capped at 2%.

A discussion ensued with comments coming from Senators Lynn, Kelsey, Wagle, Faust-Goudeau and Brownlee including:

- re: #2 asking the Secretary to provide some figures on how much that would be, as she thought his earlier comment was even if the negative balance tax was increased, it wouldn't be enough.

-3,000 employees in the high rate at 7.4, looking at adding more categories to negative balances;

- people who lay employees off are usually close to the edge as it is, they are not making money, and are paying on less people.

A motion was made by Senator Lynn to introduce a bill to put a three year cap on benefits. have Senator Emler put in a three year cap on benefits. It was seconded by Senator Schodorf.

The Chair recognized Senator Brownlee who asked if possible, regarding the chart from the Arnold Group's testimony, for the staff provide the Committee some type of cost of living index for each of these states so that we compare what our benefit payments to our cost of living.

The Chair recognized Ms. Kathie Sparks, Kansas Legislative Research Department, who stated she was not sure about an index but she did have a chart that shows the minimum and maximum benefits for every state.

The Chair then asked the Committee if they wanted to discuss increasing the Kansas surcharge to negative balance employers at another hearing on another bill, and ask Secretary Garner to provide the committee with some runs on how this would affect the system?

Adjournment

As there was no further discussion or business the meeting was adjourned. The time was 9:28 a.m.

The next meeting is scheduled for February 10, 2010.

BUSINESS AND LABOR COMMITTEE GUEST LIST

DATE: 2-2-10

NAME	REPRESENTING
Jake Aern	Heinlaw Firm
Sandy Braden	GBA
V. Natalie Bujit	KS STRAN
Miss Williams	KS Lincoln Assoc.
Jean Miller	CAP TOC STRATEGIES
Bennie Koch	KEPC
Jim Mass	Spirit Aero Systems
Ron Secher	K&T / K&FA
Kent Cornish	KAB
Mike Huffles	HGR, Inc.
Angela Redad	KDOL
Heather Sovern	KDOL
Bob Lierz	KDOL
Jim J. Wining	KDOL
Judy Mac	KDOL
Megan Brinkenborg	KDOL
Jim Gauer	KDOL
Rachelle Colombo	KS Chamber

William Gardankire

Sen Umbarger

please pass on to others
Thank you
Committee Secy.

29 in
att plus
committee

KANSAS

DEPARTMENT OF LABOR

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MEMO

DATE: January 29, 2010

TO: Senator Wagle

FROM: Inayat Noormohmad *Inayat Noormohmad* 1/29/10
Director/Senior Labor Economist, Labor Market Information Services, Kansas
Department of Labor

RE: Benefits & Contributions for positive and negative balance employers

Dear Senator Wagle,

Please find the attached document listing all of the 51 positive balance rate groups and the ten negative balance rate groups and their associated benefits charges and contributions paid for each of those rate groups.

I hope this responds to your question. We will be happy to respond to any further questions you may have regarding this matter.

c: Jim Garner, Megan Bottenberg, Angela Berland, Heather Sovern

Senate Business & Labor Committee
Date: February 2, 2010
Attachment 1

Positive Balance Employers for RY 2010							
Group	Reserve Ratio		Contribution Rates	Number of Employers	Benefit Charges	Contributions Paid	Benefit/Contribution Ratio
	lower	higher					
1	.28992	.99999	0.16	3,995	\$ 78,778,405.26	\$ 152,377,144.53	51.70%
2	.23131	.28991	0.26	3,234	\$ 23,700,337.65	\$ 62,641,682.33	37.83%
3	.20878	.23130	0.51	2,748	\$ 23,982,499.57	\$ 63,061,529.43	38.03%
4	.19721	.20877	0.77	2,092	\$ 18,739,701.31	\$ 50,352,395.28	37.22%
5	.18963	.19720	1.02	1,914	\$ 20,492,349.81	\$ 50,675,413.78	40.44%
6	.18418	.18962	1.28	1,746	\$ 17,799,374.77	\$ 46,589,771.10	38.20%
7	.17952	.18417	1.54	2,252	\$ 18,825,436.32	\$ 46,470,870.91	40.51%
8	.17612	.17951	1.79	1,702	\$ 16,119,319.50	\$ 43,174,602.65	37.34%
9	.17298	.17611	2.05	1,414	\$ 14,074,965.89	\$ 39,778,239.20	35.38%
10	.17031	.17297	2.30	1,101	\$ 21,817,829.07	\$ 47,635,967.36	45.80%
11	.16805	.17030	2.56	1,149	\$ 17,622,026.75	\$ 42,034,056.69	41.92%
12	.16676	.16804	2.82	567	\$ 13,065,872.98	\$ 36,885,458.64	35.42%
13	.16493	.16675	3.07	801	\$ 20,647,843.53	\$ 45,838,817.99	45.04%
14	.16320	.16492	3.33	869	\$ 19,349,479.65	\$ 46,795,272.89	41.35%
15	.16139	.16319	3.58	710	\$ 13,830,637.32	\$ 32,631,858.61	42.38%
16	.15918	.16138	3.84	918	\$ 20,798,294.84	\$ 47,114,794.86	44.14%
17	.15719	.15917	4.10	927	\$ 19,483,490.29	\$ 39,889,782.06	48.84%
18	.15628	.15718	4.35	370	\$ 26,245,293.65	\$ 67,707,376.85	38.76%
19	.15584	.15627	4.61	168	\$ 1,536,898.49	\$ 4,210,824.71	36.50%
20	.15343	.15583	4.86	964	\$ 19,224,310.75	\$ 41,569,502.06	46.25%
21	.15113	.15342	5.12	848	\$ 14,501,225.87	\$ 36,421,195.01	39.82%
22	.14930	.15112	5.38	720	\$ 18,282,520.71	\$ 40,610,913.50	45.02%
23	.14662	.14929	5.40	1,294	\$ 16,573,619.31	\$ 38,471,717.33	43.08%
24	.14468	.14661	5.40	694	\$ 21,902,127.06	\$ 42,770,625.70	51.21%
25	.14318	.14467	5.40	590	\$ 24,837,407.15	\$ 46,736,675.30	53.14%
26	.14137	.14317	5.40	668	\$ 19,960,186.86	\$ 41,517,748.63	48.08%
27	.13875	.14136	5.40	936	\$ 29,410,602.41	\$ 49,263,632.03	59.70%
28	.13676	.13874	5.40	639	\$ 15,229,273.28	\$ 34,565,968.75	44.06%
29	.13457	.13675	5.40	684	\$ 22,337,360.84	\$ 41,762,599.29	53.49%
30	.13257	.13456	5.40	605	\$ 25,668,861.20	\$ 44,778,849.90	57.32%
31	.12971	.13256	5.40	711	\$ 25,958,243.94	\$ 45,853,529.24	56.61%
32	.12657	.12970	5.40	721	\$ 25,917,430.22	\$ 44,152,725.70	58.70%
33	.12344	.12656	5.40	728	\$ 29,205,962.36	\$ 47,603,013.91	61.35%
34	.11998	.12343	5.40	1,111	\$ 25,543,455.91	\$ 43,101,879.27	59.26%
35	.11688	.11997	5.40	559	\$ 26,353,512.64	\$ 43,393,205.91	60.73%
36	.11324	.11687	5.40	621	\$ 26,906,759.97	\$ 44,684,850.78	60.21%
37	.10892	.11323	5.40	722	\$ 27,266,150.24	\$ 42,533,521.95	64.11%
38	.10476	.10891	5.40	624	\$ 32,205,916.45	\$ 47,064,173.20	68.43%
39	.10083	.10475	5.40	550	\$ 33,102,786.93	\$ 49,035,828.16	67.51%
40	.09531	.10082	5.40	677	\$ 30,095,867.26	\$ 44,831,129.35	67.13%
41	.09181	.09530	5.40	380	\$ 27,459,921.51	\$ 40,979,082.57	67.01%
42	.08532	.09180	5.40	574	\$ 31,776,471.76	\$ 44,883,872.40	70.80%
43	.07916	.08531	5.40	655	\$ 42,323,851.27	\$ 54,745,370.96	77.31%
44	.07298	.07915	5.40	439	\$ 40,327,866.45	\$ 51,073,284.28	78.96%
45	.06587	.07297	5.40	502	\$ 43,946,114.53	\$ 54,713,942.14	80.32%
46	.05774	.06586	5.40	464	\$ 59,001,388.55	\$ 68,830,851.62	85.72%
47	.04787	.05773	5.40	564	\$ 42,834,453.63	\$ 50,896,699.93	84.16%
48	.03705	.04786	5.40	573	\$ 45,220,558.12	\$ 51,785,001.95	87.32%
49	.02658	.03704	5.40	471	\$ 148,709,202.96	\$ 154,089,678.24	96.51%
50	.01262	.02657	5.40	550	\$ 61,530,322.42	\$ 64,785,444.52	94.98%
51	.00000	.01261	5.40	2,029	\$ 67,903,162.14	\$ 67,681,264.74	100.33%
				51,544	\$ 1,528,426,951.35	\$ 2,581,053,638.19	59.22%

Negative Balance Employers for RY 2010

<u>Negative Reserve Ratio</u>	<u>Surcharge (%)</u>	<u>Total Tax Rate (%)</u>	<u>Number of Employers</u>	<u>Benefit Charges</u>	<u>Contributions Paid</u>	<u>Benefit/Contribution Ratio</u>
Less than 2.0%	0.20	5.60	608	\$ 124,724,843.15	\$ 122,481,970.10	101.83%
2.0% but less than 4.0	0.40	5.80	546	\$ 59,981,571.71	\$ 55,298,170.93	108.47%
4.0 but less than 6.0	0.60	6.00	468	\$ 98,018,050.73	\$ 86,510,785.49	113.30%
6.0 but less than 8.0	0.80	6.20	397	\$ 113,739,808.66	\$ 103,762,664.86	109.62%
8.0 but less than 10.0	1.00	6.40	354	\$ 163,382,518.10	\$ 147,285,637.02	110.93%
10.0 but less than 12.0	1.20	6.60	263	\$ 29,611,116.16	\$ 25,063,039.01	118.15%
12.0 but less than 14.0	1.40	6.80	255	\$ 37,668,614.16	\$ 30,291,530.40	124.35%
14.0 but less than 16.0	1.60	7.00	240	\$ 45,561,914.55	\$ 38,127,364.60	119.50%
16.0 but less than 18.0	1.80	7.20	183	\$ 19,773,451.68	\$ 14,887,757.38	132.82%
18.0 and over	2.00	7.40	3,056	\$ 965,326,443.31	\$ 553,921,000.60	174.27%
			6,370	\$ 1,657,788,332.21	\$ 1,177,629,920.39	140.77%