

MINUTES OF THE SENATE BUSINESS AND LABOR COMMITTEE

The meeting was called to order by Chairman Susan Wagle at 8: 30 a.m. on February 10, 2010 in Room 548-S of the Capitol.

All members were present except:
Senator Dick Kelsey

Committee staff present:

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

Conferees appearing before the Committee:

Mr. Ron Hein, Legislative Counsel, representing
Kansas Association of Real Estate Inspectors
Mr. Jim Garner, Secretary, Kansas Department of Labor
Mr. Don Saylor, CEO,
Kansas Restaurant & Hospitality Association
Ms. Rachelle Columbo, Senior Director of Legislature Affairs,
The Kansas Chamber
Ms. Ashley Sherard, Vice President,
Lenexa Chamber of Commerce
Ms. Jennifer Bruning, Vice President Governmental Affairs
Overland Park Chamber of Commerce

Others attending:
See attached list.

Hearing on SB377 - an act concerning the Kansas Home Inspectors Professional Competence and Financial Responsibility Act

Upon calling the meeting to order, Chairperson Wagle announced they would be hearing four bills today, the first being **SB377**. She then called on the only proponent to testify, Mr. Ron Hein, Legislative Counsel, representing the Kansas Association of Real Estate Inspectors (KAREI), who gave a brief history of KAREI and then explained the bill and its errors as follows:

1. It is a simple clean up bill. After the conference committee report was adopted in 2009, it inadvertently contained errors causing conflicts in the real estate inspector law that was enacted on an overwhelming vote.
2. The bill appears to change amounts of liability in the legislation itself, but in actuality, the decision was made in 2009 to set the liability amount at \$2K and the changes in **SB377** merely corrects conflicting provisions that resulted from the incorrect conference committee report.
3. No substantive changes.

A copy of his testimony is (Attachment 1) attached and incorporated in the Minutes as referenced.

The Chair thanked Mr. Hein and then asked the will of the Committee. Senator Lynn made a motion to move the bill favorably out of Committee and onto the Consent Calendar. It was seconded by Senator Brownlee and the motion carried.

Recommendations from the Employment Security Advisory Council (ESAC)

The Chair then asked the Committee to turn their attention to the unemployment issue, stating when they first started into looking the massive tax increases business had received, she offered a bill that was before them (**SB486**) that required an employer to pay 50% of the principal amount owed and then delayed penalties and

CONTINUATION SHEET

Minutes of the Senate Business and Labor Committee at 8:30 a.m. on February 10, 2010, in Room 548-S of the Capitol.

Page 2

interest for three months for the next payments that are due and through the first payment of next year. After hearing concerns from businesses, she feels this bill does not provide enough relief.

She went on to say they will have a hearing on that concept today, but wants the Committee to be fully informed about everything that is going on, on both sides of the rotunda and referred them to the handout from the January 19, 2010 Committee meeting entitled, "A Guide to Understanding the Kansas Unemployment Insurance Tax Rates." The Chair said there is a bill in the House that is being looked at and the only way to comprehend how that bill works is to look at some of the charts of this handout. She went on to say that Secretary Garner walked the Committee through:

- How he made the calculations to determine the tax rates for this year.
- Referring to page 12 of the handout, he came up with a 2010 original tax calculation for business.
- The formula required a certain amount of dollars flow back into the fund so he made this original tax calculation and then adjusted it.

As the chart shows, referring to those on the high end, she said a lot of them are over the federal requirement cap of 5.4% and so when Secretary Garner lowered the people at the high end of 5.4 he raised all of these positive employers on the low end who really have very little experience with unemployment. She went on to say there is a bill in the House that adopts the original 2010 tax rate calculation for two years. It does lower the amount of money that goes into the unemployment fund which means we borrow more, but it gives us an additional two years to try and figure this out and eases the burden of business so that we are not laying off more people. We do have the concept of paying the full amount that has been sent out by trying to delay that payment or the concept of lowering rates that we could consider.

The Chair recognized:

- Senator Brownlee who said one of her objectives would be to lower the cost to employers because the Committee has heard how they are impacted by this and when we are in this kind of recession we need to protect the mechanism that creates jobs.
- Senator Reitz who said he was hoping he was hearing it right in that there is some way they are going to be able to predict what the laborer is going to receive if these numbers are dropped dramatically from the contribution.

The Chair stated that the state has already made application to borrow federal money to hold up the fund and legislation has a formula by which people are paid and unless we change the formula, the beneficiaries receive the same amount. She then recognized Secretary Garner, to share the recommendations from ESAC. Secretary Garner began his testimony with a history of the Council including:

- It is created by statute and comprised of members from the business community, labor organizations, and economists from our Universities.
- It oversees matters concerning the UI Trust Fund and provides insight and recommendations on the Employment Security laws and legislation in Kansas.

He went on to say, the ESAC subcommittee met to discuss how to rebuild the Trust Fund and pay off any federal loans that may be needed. They came up with two sets of recommendations:

A Trust Fund solvency and payment of principle on debt, recommending the Legislature enact three options that will create new revenue to address the solvency and pay back the debt:

1. Increase the taxable wage base to \$9K in 2011, \$10K in 2012, and index the taxable wage base to increase in the annual average weekly wage in future years.

CONTINUATION SHEET

Minutes of the Senate Business and Labor Committee at 8:30 a.m. on February 10, 2010, in Room 548-S of the Capitol.

Page 3

2. Add nine additional negative balance rate groups to the existing 10 negative balance rate groups.
3. Place a 2-year moratorium on the maximum weekly benefit amount.

Under the above scenario and factoring in FUTA credit reductions, Secretary Garner said they project the UI Trust Fund will become solvent in 2016.

B. Payment of the accrued interest on federal loans, with ESAC agreeing to recommend to the Legislature, legislation that would implement a special assessment dedicated to paying only for the interest accrued on federal loans for the Trust Fund.

1. Legislation would provide an assessment which would be paid into a separately created employment security interest assessment fund.
2. The amount would be a flat rate percentage on an employer's current tax rate, to be set by the Secretary of Labor after determining the amount needed to pay interest due on advances for such tax year.
3. The assessment would be in addition to current contributions and would be used to pay for interest owed the federal Treasury for Trust Fund borrowing.
4. Collection would begin once interest had begun to accrue.
5. Determination of the surcharge rate would be made in time to notify employers of the rate at the same time they receive notice of their annual contribution rate.
6. Any excess collections would be placed in the interest assessment fund to pay interest in future years.
7. Any funds remaining in the account once all interest payments have been paid transfer to the Trust Fund.

A copy of his testimony is (Attachment 2) attached and incorporated into the Minutes as referenced.

Questions for Secretary Garner came from Senators Wagle, Holland, Lynn, Brownlee, Emler, and Schodorf including:

- Do we need to pass a bill this year that addresses the money we are borrowing on the interest? Answer: Secretary Garner said it would give the employers adequate notice so they will know what to plan for, unless Congress extends the waiver of interest payment.
- Regarding the flat fee, to clarify are we really talking about a flat rate based upon the employer's current rate? Answer: Yes.
- In the first set of recommendations, increasing the taxable wage, what would this do to business and how would it impact the fund and what is the value of this fund? Answer: He has figures, but not here.
- Does it potentially lower the burden for employers with part time and low wage employees? Answer: Secretary Garner said he is not comfortable right now making that blanket statement.
- If interest begins to accrue in January 2011 and referring to the Chair's questions. if we were to give maximum notice to the employers for their budgeting purposes for their next calendar year, don't we really need to do something this year in the way of legislation ? Answer: Secretary Garner said yes.
- Is there any penalty if they don't begin the interest payments in September 2011 and what would it be if there is? Answer Secretary Garner said yes, we would loose the entire FUTA.

CONTINUATION SHEET

Minutes of the Senate Business and Labor Committee at 8:30 a.m. on February 10, 2010, in Room 548-S of the Capitol.

Page 4

The Chair said, along those lines, she thought he has stated that he would take the recommendations to ESAC and then come back to us with a bill, Secretary Garner said they had approved this but wanted to get the final version of the language circulated to them before he brought it to Committee and would let ESAC know today.

Hearing on SB474 - an act concerning the employment security law; pertaining to the definition of wages

As there were no further questions for the Secretary, the Chair stated that since they have had this discussion on the wage base, she would like to take a look at **SB474** which raises the wage base to \$9K next year and \$10K in 2012. She again called on Secretary Garner who offered neutral testimony, including;

1. The three recommendations of the Council and encourage they be kept together as a package aimed at addressing Trust Fund solvency.

2. Suggests an amendment to the bill if the intent is to help address the solvency of the Trust Fund as follows:

“Any revenue generated by the change in the taxable wage base shall be in addition to the planned yield established in Schedule III of K.S.A. 44-710a.”

3. If the Committee chooses to work the bill, some technical amendments are needed:

- For lines 42 and 43 on page 14 of the bill (changing to indicate the taxable wage base will be \$7K for the calendar year 1983 and \$8K for the calendar years 1984 to 2010 inclusive.

- Given the amendments to change the taxable wage base to \$9K in 2011 and \$10K in 2012 and thereafter, a revision to page 15, line four is required. (The figure of \$8K used here should be changed to \$9K for the calendar year 2011 and \$10K with respect to employment during any calendar year following 2011.)

Lastly, he stated that Kansas has not increased the taxable wage base since 1983 and offered a map showing the taxable wage base in each state. A copy of his testimony and map are (Attachment 3) attached and incorporated into the Minutes as referenced.

The Chair then called on the first of two opponents, Mr. Don Sayler, CEO, Kansas Restaurant and Hospitality Association (KRHA) who stated that:

1. The 2011 wage base of \$10K will cause an extra \$108 tax per employee when figured at the maximum rate. (Ex. If an employer has 100 workers, this will be an increase of more than \$10K.) This is compounded by the fact that the additional tax will be due for the first & second quarters rather than spread throughout the year, which exacerbates the cash flow issue for business.)

2. Since the UI fund has had to borrow money from The US Treasury, there will be a surcharge placed on the employers, over and above the increases experienced for 2010, placing a further burden on businesses.

3. He compared the part time with full time employees.

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

The second opponent conferee was Ms. Rachele Columbo, Senior Director of Legislative Affairs, the Kansas Chamber, who stated she also worked on ESAC and the vote was last week and it was not unanimous. She added, two of the four members of the business representatives on the Council did not support the provision for the increase in taxable wage base for many of the reasons that are being discussed today. She went on to say:

CONTINUATION SHEET

Minutes of the Senate Business and Labor Committee at 8:30 a.m. on February 10, 2010, in Room 548-S of the Capitol.

Page 5

1. All employers are likely to see an immediate increase in taxes as a result of a tax base increase unless the rate schedule is changed to reduce rates below 5.4%.
2. The theory that increasing the tax base now will increase revenue and balances in individual employer accounts resulting in lower tax rates next year or the year after would only be true if all other factors affecting the contribution rate were the same and equally weighted.
3. Employers in every rate group would be impacted by an increase in taxable wage base.

A copy of her testimony is (Attachment 5) attached and incorporated into the Minutes as referenced.

The Chair then asked the audience who wants to address this bill. Mr. Ken Daniels, with the Topeka Independent Business Association, basically every employer will get a 25% increase in the amount they pay over a two-year period of time. No written testimony was offered.

Questions for Secretary Garner came from Senators Lynn, Wagle, Brownlee, and Holland including:

- ESAC has come up with a recommendation for a surcharge to pay interest only on money borrowed. Is the increase in FUTA taxes that is coming in 2013 to pay back principal? Doesn't ESAC feel like the .3% a year that FUTA is going to require of KS businesses because we are borrowing money is not going to be enough to pay back the short fall of the money you are going to need to borrow? Answer: No, Secretary Garner answered, it was more of taking these other actions so it gets it paid off sooner, so you are not incurring those FUTA reductions for a longer period of time.

- Can you tell us how much money you will need to borrow? Answer: \$750M if unemployment stays as projected.

- Last year we paid out \$766M and with the calculations that you have today, how much money will Kansas employers pay into the fund this calendar year? Answer: \$407M. If we paid out \$766M last year, why borrow \$750M? Answer: We don't borrow in lump sum amounts, we only borrow as we need to pay that day's benefits, it is a daily transactional event.

- If we don't do anything with raising the taxable wage base of \$9K and \$10, aren't we putting more burden on those positive balance employers and if we don't have those additional monies in the fund, in essence, all employers are going to be paying a higher surcharge? Answer: Secretary Garner said he feels the thinking among ESAC was earlier you can get back to a the solvent situation means less money they are going to have to pay back in future years.

Hearing on SB486 - An act concerning the employment security law; pertaining to certain payments required.

As there were no further questions, the Chair stated she wanted to move onto **SB486**, which is a bill that required the employer to pay in 50% of what is due and then remove the penalty and interest for several months, and hopes that the conferees can also address the other concept of going back to the 2010 tax rate computation. She then called on the first of two proponents Ms. Rachele Columbo, Senior Director of Legislative Affairs, The Kansas Chamber who stated:

1. By providing a 90-day grace period on quarterly payments, the bill allows employers to better manage their cash flow in the wake of historic unemployment insurance tax increases.
2. 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.
3. Business should be given the option of deferring payment without a penalty so they can maintain employment and speed our state's economic recovery.

CONTINUATION SHEET

Minutes of the Senate Business and Labor Committee at 8:30 a.m. on February 10, 2010, in Room 548-S of the Capitol.

Page 6

A copy of her testimony is (Attachment 6) attached and incorporated into the Minutes as referenced.

The second proponent was Ms. Ashley Sherard, vice-president, Lenexa Chamber of Commerce stating:

1. She wanted to encourage you to go farther something more along the lines of what the House is looking at which would return rates to the original route of an adjusted rate and forgive penalties and interest and allow them to pay through the end of the year.

2. They did specifically survey their members regarding some of the recommendations that ESAC was considering and the response that they got from the survey was that they would rather pay a little more for a longer time than a lot more for shorter time. Also, the survey responses reiterated their thoughts on the importance of the integrity of experience ratings. A copy of her testimony is (Attachment 7) attached and incorporated into the Minutes as referenced.

Written testimony is offered from:

1. Ms. Jennifer Bruning, Vice President of Government Affairs, Overland Park Chamber of Commerce

2. Mr. Don Saylor, CEO, Kansas Restaurant and Hospitality Association

The Chair recognized Mr. Saylor to say she thought he supported the concept of lowering rates, but there is a technical problem with this bill, in that we do have to delay a date in order to make this bill work. We would have to change the date where the Department assesses the amount of money that has been paid in by each employer. He is in agreement.

A copy of the above written testimony is (Attachment 8) attached and incorporated into the Minutes as referenced.

The Chair then asked for comments from the audience, she recognized Secretary Garner who offered neutral testimony and stated he wanted to make sure the Committee is aware of the following:

1. There is a big difference between penalty and interest. A penalty applies when an employer fails to timely file a quarterly wage report. Interest applies when they fail to timely pay their taxes. He strongly encourages to leave the penalty provisions of law alone because KDOL needs to have those quarterly wage reports filed every quarter in a timely manner, since that information is critical for them to process claims, determine eligibility for benefits, etc.

2. Regarding what they do under the current law, there are two important key dates, the first is July 31 and the other is January 31.

- July 31 is the key date that they use to determine experience ratings for employers for the next year.

The amount of money that the employer has paid into the Trust Fund as of July 31 is determinate of their account balance and their experience rating for the next tax year.

January 31 affects the federal tax credit (FUTA) which requires that the tax be paid by that date for an employer to get the full 5.4% tax credit. Their staff interprets this bill as drafted there would be some payments that could be delayed until January 31 which would have an impact on that employer's FUTA credit. A copy of his neutral testimony is (Attachment 9) attached and incorporated into the Minutes as referenced.

Chairman Wagle asked him to comment on the concept of going back to the 2010 original rate. Answer: Secretary Garner stated he had prepared testimony for the House bill that is being heard today and as the bill is drafted one primary concern KDOL has is that the 2011 tax rates would basically apply the 2010 tax rates.

The federal law is clear that to have an approved experienced rated system there has to be a recalculation done

CONTINUATION SHEET

Minutes of the Senate Business and Labor Committee at 8:30 a.m. on February 10, 2010, in Room 548-S of the Capitol.

Page 7

every year. So having the 2011 provision, could raise a federal compliance issue that KDOL is looking into.

The Chair asked about how much less does it bring into the fund and if this were to be passed quickly, could you implement before the first quarter deadline? Answer: Secretary Garner said they calculated \$43.4M and if this passed, it would require them to recalculate and send notices to employers. We will implement whatever policy is enacted.

The Chair asked for further questions which came from Senators, Holland, Brownlee, Emler and Wagle including:

- Are we basically telling every employer in the State of Kansas they can basically defer 50% of their unemployment taxes over succeeding five quarters?

The Chair answered it was hopefully written to delay each payment an additional 90-days before penalty and interest would start to accrue and hope they could write in the bill that people would send in their statement so that KDOL could gather their data and delay the payment.

She went on to say that one reason she was looking at that bill because it did not require changes in both the employer and KDOL's payroll systems, it didn't change rates, it delayed payments.

- Do we understand the Fiscal impact that this will do to the fund? Answer: Secretary Garner said less money would be coming into the fund so we would probably be borrowing more earlier.

- What are other states doing right now in this situation?

- Concur on the penalties, how much more money are we going to have to borrow up front and what will be the effect on the FUTA charges for the principal and the interest that we have to pay and are we actually moving this from one place to another where the employers are going to get hit?

(Secretary Garner said he would provide the information at the next meeting for the above three questions.)

The Chair said the Committee would also like to look at both concepts: delaying penalties and interest and adding to this, if Secretary Garner wants to look into this further, we have in the past allowed the Secretary of Revenue to grant a hardship waiver. We need to look at the long term effect of both concepts: lowering the rates to the 2010 rates which KDOL says brings in \$49.4 less million dollars and the concept of penalty and interest which brings in the same amount but brings it in later. Other questions included:

- When things are normal, when do all of the payments get paid by employers, Answer: Secretary Garner said 52% of their payments come in the first quarter. The Chair said the majority of the tax is paid in April and every quarter your payment goes down, which is another outcry from the business world.

- Can the July 31 deadline be changed? Answer: Yes to both. The date can be changed to October in order to have the bill work, the only problem being the administrative constraint of getting it all done on time to get notices out to employers for January.

Adjournment

As it was going on 9:30 a.m., the Chair thanked the Committee and conferees and said they would be working on this tomorrow. The meeting was adjourned. The time was 9:31 a.m.

The next meeting is scheduled for February 11, 2010.

HEIN LAW FIRM, CHARTERED

5845 SW 29th Street, Topeka, KS 66614-2462

Phone: (785) 273-1441

Fax: (785) 273-9243

Ronald R. Hein

Attorney-at-Law

Email: rhein@heinlaw.com

Testimony re: SB 377
Senate Business and Labor Committee
Presented by Ronald R. Hein
on behalf of
Kansas Association of Real Estate Inspectors
February 10, 2010

My name is Ron Hein and I am legislative counsel for Kansas Association of Real Estate Inspectors (KAREI). KAREI is the professional trade association for individuals who inspect real estate, primarily residential homes, in order to protect individual home buyers from electrical, plumbing, mechanical, construction, or other problems that might otherwise be undetected by home buyers. KAREI is comprised of approximately 120 real estate inspectors in the state of Kansas.

KAREI supports SB377. SB 377 is nothing more than a simple clean up bill, after the conference committee report adopted last year inadvertently contained errors which cause conflicts in the real estate inspector law that was enacted on an overwhelming vote.

This bill would appear to change amounts of liability in the legislation itself, but in actuality, the decision was made last year to set the liability amount at \$2,000, and the changes in SB 377 merely correct conflicting provisions that resulted from the incorrect conference committee report.

There are NO substantive changes in SB 377, simply technical ones to eliminate the inherent conflicts in the statute currently, given last year's technical error.

KAREI urges the committee to adopt this technical clean up measure.

Thank you for permitting me to testify and I would be happy to yield to questions.

Senate Business & Labor Committee
Date: February 10, 2010
Attachment 1

**Testimony on the Recommendations by the
Employment Security Advisory Council
To Senate Business and Labor Committee**

**By
Jim Garner, Secretary
Kansas Department of Labor**

10 February 2010

Chairwoman Wagle and Members of the Committee:

Thank you for giving me the opportunity to share an update on the recent recommendations of the Employment Security Advisory Council.

The Employment Security Advisory Council (ESAC) is a group created by statute and is comprised of members from the business community, labor organizations and economists from our universities. They oversee matters concerning the Unemployment Insurance Trust Fund and provide insight and recommendations on the Employment Security laws and legislation in Kansas.

In August, this group was charged with providing recommendations and solutions regarding the Unemployment Insurance Trust Fund to the Labor Secretary. ESAC held its first meeting September 3, 2009 and formed a sub-committee that examined a variety of options for the full ESAC to review. The ESAC sub-committee met three times to study the issue and develop possible recommendations for the full Council to provide to the Legislature and Labor Secretary on how to rebuild the Trust Fund and pay off any federal loans that may be needed. The full Council then met five times to review the work of the sub-committee. They have studied a variety of options and scenarios, taking into consideration both employer and claimant interests.

After much study, last week the ESAC adopted two sets of recommendations. One set of recommendations to address the UI Trust Fund's solvency and efforts to help pay back the debt incurred to pay benefits. The second recommendation concerns the payment of the interest on federal advances.

Trust Fund solvency and payment of principle on debt:

The ESAC recommends the Legislature enact three options that will create new revenue to help address the Trust Fund solvency and pay back the debt from federal advances.

- 1) **Increase the taxable wage base to \$9,000 in 2011, \$10,000 in 2012 and index the taxable wage base to increases in the annual average weekly wage in future years**
- 2) **Add nine additional negative balance rate groups to the existing 10 negative balance rate groups**
- 3) **Place a two-year moratorium on the maximum weekly benefit amount**

Under this scenario and factoring in FUTA credit reductions, we project the UI Trust Fund will become solvent in 2016.

Payment of the accrued interest on federal loans:

The ESAC agreed to recommend to the Legislature legislation that would:

- 4) **Implement a special assessment dedicated to paying only for the interest accrued on federal loans for the Trust Fund.**

The legislation would provide an assessment which would be paid into a separately created employment security interest assessment fund. The amount would be a flat percentage on an employers' current tax rate, to be set by the Secretary of Labor upon determination of the amount needed to pay interest due on advances for such tax year. The assessment would be in addition to current contributions and would be used to pay for interest owed the federal Treasury for Trust Fund borrowing.

The collection would begin once interest had begun to accrue. Determination of the surcharge rate would be made in time to notify employers of the rate at the same time they receive notice of their annual contribution rate. Also, any excess collections would be placed in the interest assessment fund for use to pay interest in future years. Any funds remaining in the account once all interest payments have been paid would transfer to the Trust Fund.

Conclusion

The Council will meet again on Thursday, March 4. I will be happy to answer any questions.

Unemployment Insurance Trust Fund Balance Projections

Kansas

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.

The Benefit Financing Model is comprised of two separate programs. Program one, the Projection Program, projects specific Unemployment Insurance variables twelve years into the future. Section two, the Financial Forecast, forecasts the Unemployment Compensation Fund. The Projection Program forecasts twelve Unemployment Insurance variables on a quarterly basis starting from a base year, which is the most recently completed calendar year. All of these 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. Based on these relationships, a series of standard equations will be developed for each State. Such equations will be measured against defined test standards before being acceptable for the Projection Program. The coefficients of these algebraic relationships will be used to forecast each of the quarterly UI variables.

Since regression analysis is the basis for projecting a number of the Projection Program variables, it must be remembered that this technique presupposes that relationships, which have existed in the past, will continue to exist in the future. However, this may not always be the case, as the degree of the relationships may be changing over time, or may change abruptly if changes occur in the Unemployment Insurance program itself. The output from the Projection Program forms the input for the Financial Forecast Program.

The inputs in this model were annual growth rate of labor force, average weekly wage and insured unemployment rate. Labor force and average weekly wage growth rates were determined from historical paths. 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 August 25th 2009. 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 R^2 were used.

For all the estimates listed below it was assumed that state triggered extended benefit will be triggered on from 2010 quarter1 to 2011 quarter 4. According to the existing statute, the state is responsible for paying 50% of the extended benefits.

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 forecast continues to be revised as new data becomes available. Some of these revisions could be substantial.

**Testimony on 2010 Senate Bill 474
To
Senate Business and Labor Committee**

**By
Jim Garner, Secretary
Kansas Department of Labor**

10 February 2010

Chairwoman Wagle and members of the Committee:

Thank you for the opportunity to appear and share comments regarding 2010 Senate Bill 474. This bill increases the taxable wage base in our Employment Security laws from the current \$8,000 to \$9,000 in 2011 and \$10,000 in 2012.

This is consistent with a part of the package of proposals recommended by the Employment Security Advisory Council. These recommendations are aimed at developing some measures to help rebuild the solvency of the UI Trust Fund and to pay off the debt that the state will incur to pay unemployment benefits over the next couple of years. In addition to the increases in the taxable wage base in 2011 and 2012, the Council also recommends that the taxable wage base be indexed to increases in the average weekly wage in Kansas thereafter. I support the three recommendations of the Council and would encourage that they be kept together as a package aimed at addressing Trust Fund solvency. These recommendations are the result of an effort on the part of the Council to create a balanced approach addressing Trust Fund solvency issues, demonstrating some shared sacrifice toward rebuilding the Fund.

Also I would suggest an amendment to the bill if the intent is to help address the solvency of the Trust Fund. There needs to be included language, as follows:

“Any revenue generated by the change in the taxable wage base shall be in addition to the planned yield established in Schedule III of K.S.A. 44-710a.”

Without this language, the change in taxable wage base would have no impact on helping reduce the debt that will be incurred as the state seeks advances from the US Treasury under Title XII of the Social Security Act.

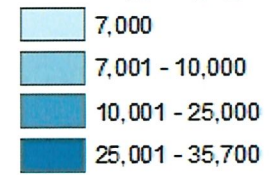
Kansas has not increased the taxable wage base since 1983. Neighboring states all have taxable wage bases higher than Kansas. Attached is a map showing the taxable wage base in each state.

Finally, if the Committee chooses to work the bill, we believe some technical amendments are needed to this bill. As drafted, the bill indicates on page 14, lines 42 and 43, that the taxable wage base shall be \$7,000 for the calendar years from 1983 to 2010. This should be changed to indicate the taxable wage base will be \$7,000 for the calendar year 1983 and \$8,000 for the calendar years 1984 to 2010 inclusive. In addition, given the amendments to change the taxable wage base to \$9,000 in 2011 and to \$10,000 in 2012 and thereafter, a revision to page 15, line 4, is required. The figure of \$8,000 used here should be changed to \$9,000 for the calendar year 2011 and \$10,000 with respect to employment during any calendar year following 2011.

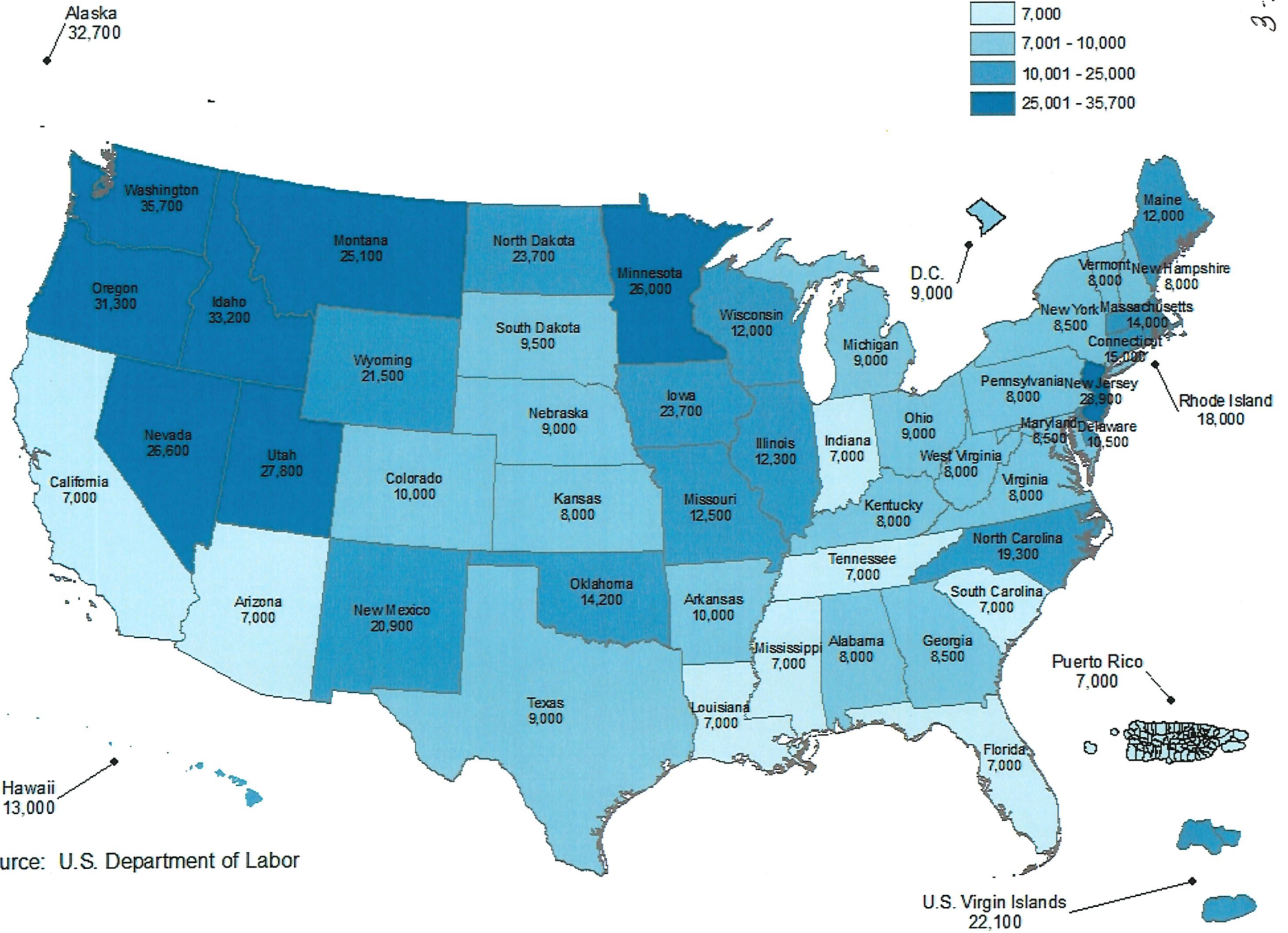
Again, Madam Chair I appreciate you allowing me this opportunity to share this information concerning Senate Bill 474.

2009 Taxable Wage Base

Taxable_Wage_Base



3-3



Source: U.S. Department of Labor



**Testimony Re: SB 474 – Adjustment of Taxable Wage Base
Senate Business and Labor Committee
February 10, 2010**

Chairman Wagle and Members of the Committee:

My name is Don Sayler and I am the CEO for the Kansas Restaurant & Hospitality Association (KRHA). KRHA is the leading business association for restaurants, hotels, motels, country clubs and allied business in Kansas. Along with the KRHA Educational Foundation, the association works to represent, educate and promote the growing industry of hospitality in Kansas.

I am here to express our opposition to this proposed increase in the taxable wage base for unemployment tax. While we understand the fund is in a deficit position, this increase in the wage base will cause a heavier tax burden on employers and will no doubt cause more layoffs, thereby placing a further drain on the fund.

The 2011 wage base of \$10,000 will cause an extra \$108 tax per employee, when figured at the max rate. While this in itself doesn't seem like that much, if an employer has 100 workers, this will be an increase of over \$10,000. This tax increase is compound by the fact that the additional tax will be due for the first and second quarters, rather than spread throughout the year, which exacerbates the cash flow issue for business.

Since the UI fund has had to borrow money from the US Treasury, there will be a surcharge placed on employers, over and above the increases experienced for 2010. This places a further burden on businesses. As you are well aware, with the depressed economy that has been suffered since October 2008, the restaurant and lodging industry has suffered as well.

KRHA opposes this proposed increase in the taxable wage base and the related implications. We ask that you consider the negative impact that the proposed increase will have and oppose this legislation. Thank you for allowing me to provide testimony on this important issue.

Senate Business & Labor Committee
Date: February 10, 2010
Attachment 4

Legislative Testimony

achieve
more

SB 474

February 10, 2010

Senate Business and Labor

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

Madame Chair, members of the committee, thank you for allowing me to provide testimony on behalf of the Kansas Chamber in opposition to SB 474.

SB 474 would increase the taxable wage base from \$8,000 to \$9,000 in 2011 and to \$10,000 in 2012 and thereafter.

Federal law requires the inclusion of a 5.4% rate in our scheduled tax rate, which is the maximum rate in Kansas. If the 5.4% rate continues to be the maximum and the taxable wage base is raised, employers at the maximum rate will see an increase in taxes (5.4% of 20,000 is twice as much as 5.4% of 10,000).

All employers are likely to see an immediate increase in taxes as a result of a tax base increase unless the rate schedule is changed to reduce rates below 5.4%.

The theory that increasing the tax base now will increase revenue and balances in individual employer accounts resulting in lower tax rates next year or the year after would only be true if all other factors affecting the contribution rate were the same and equally weighted. However, even if the tax rate is lower, the actual tax amount due (earned rate multiplied by the tax base) is likely to be higher if figured on a higher wage base. Furthermore, as evidenced by increases this year, tax rates are already disproportionately high relative to experience rating because of the level of the fund.

It also bears noting that employers in every rate group would be impacted by an increase in taxable wage base. Those with lower wage and part time workers could find themselves paying the maximum rate along with higher wage employers on top of a higher base due to their experience rating. The tax burden will be compounded for positively balanced employers who are already paying the maximum rate and have higher wage workers.

Increasing the taxable wage base to improve solvency and generate revenue translates to higher taxes for contributing businesses of all experience levels. The statement that increasing the tax base will reduce taxes on its face is not accurate. The unemployment insurance system and the formula utilized to compute tax rates are complicated and must be understood before one piece of the formula is changed without regard for the affect.

The Kansas Chamber opposes SB 474 because it will increase unemployment insurance taxes for employers beyond what they are already facing. Please vote no on SB 474.

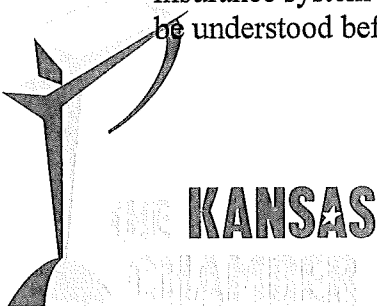
Thank you for the opportunity to offer these comments today.

835 SW Topeka Blvd. **Topeka, KS** 66612 785.357.6321

Senate Business & Labor Committee

Date: February 10, 2010

Attachment 5



Legislative Testimony

SB 486

February 10, 2010

Senate Business and Labor

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

Madame Chair and members of the committee, thank you for allowing me to provide testimony on behalf of the Kansas Chamber in support of SB 486.

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.

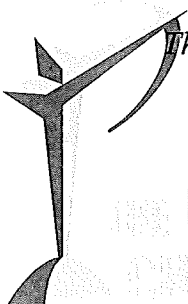
Kansas employers have kept our fund healthier than the twenty five states that bankrupted before us and yet have been burdened with the fifth largest unemployment tax increase in the country. Returning our fund to solvency is paramount and will be even more difficult if employers are forced to lay-off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

The Kansas business community needs relief in order to maintain current employment and recover so that our economy can stabilize. Business should be given the option of deferring payment without penalty so they can maintain employment and speed our state's economic recovery.

SB 486 provides relief for businesses even as it increases contributions into the fund in 2010.

The Kansas Chamber supports providing businesses with the option of deferring quarterly payment to managing their cash flow without penalty and interest.

Thank you for the opportunity to offer these comments today.



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

KANSAS



The Historic Lackman-Thompson Estate

11180 Lackman Road

Lenexa, KS 66219-1236

913.888.1414

Fax 913.888.3770

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

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

DATE: February 10, 2010

RE: **SB 486—Required Unemployment Compensation Payments**

The Lenexa Chamber of Commerce appreciates the opportunity to express its support for Senate Bill (SB) 486, which would allow employers in 2010 to defer 50% of their quarterly unemployment compensation tax contribution plus any past-due penalties and interest to the next calendar quarter without accruing additional penalties and interest.

As you have already heard from many business owners, the full impact of the 2010 unemployment compensation tax rates was significant and unanticipated. Year-to-year increases of between 100%-500% (or more) are not uncommon. With the recession continuing to hold revenues down and other expenses continuing to go up, companies are struggling to determine how they will pay their UC assessments this April, only a few months from now. Unfortunately, for many the options are limited.

Without some relief, businesses have testified they will be forced to lay off workers or forego plans to hire/rehire workers, increasing the number of UC claimants – or worse, some may go out of business altogether, also reducing the number of Fund contributors. All of these scenarios would exacerbate what is already a serious issue – rebuilding the Fund balance over time.

We believe SB 486 would be a positive step in providing Kansas employers some relief in meeting their 2010 unemployment compensation tax obligations. We hope you will continue to consider other means of reducing the impact of the 2010 assessments, including cutting the tax rate for 2010 to a more sustainable increase, as well as longer-term changes to the formula to better protect the integrity and fairness of experience ratings and to provide incentives for maintaining workforce.

For these reasons we urge you to consider SB 486 favorable for passage. Thank you very much for your time and attention to this important issue.

Senate Business & Labor Committee
Date: February 10, 2010
Attachment 7



January 25, 2010

Senate Business and Labor Committee
State of Kansas

Dear Sir or Madam:

I am a partner in Allied Staffing, a Kansas employer. I am writing regarding the impact of the 2010 unemployment compensation tax increase on our business. We estimate that the recent increase in unemployment taxes will cost our business an additional \$150,000 in 2010. We are trying to determine how to handle this enormous increase. We certainly cannot afford to absorb it. Yet in this economy, it is very difficult to increase our prices to our clients. They are already struggling to survive the recession.

Given this additional cost, we may have no choice but to reduce staff. At the same time, if we are able to pass some of the cost on to our clients, they will be forced to do all they can to reduce their staff usage costs. Isn't that exactly the opposite of what the economy needs now?

As a former business analyst, I can attest to the fact that higher labor costs make it easier for companies to justify (1) investing in labor saving technology or (2) moving jobs out-of-state or off-shore. So the net long-term result almost certainly will be reduced employment in Kansas.

Any relief the state can provide regarding these taxes will enhance the prospect for higher employment in Kansas.

Thank you for your service during this difficult time.

Sincerely,

A handwritten signature in cursive script that reads "Ron Trachsel".

Ron Trachsel
Partner



Written Testimony in Support of Senate Bill 486

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

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

Chairwoman Wagle and Committee Members:

My name is Jennifer Bruning, and I am Vice President of Government Affairs with the Overland Park Chamber of Commerce. I am writing today on behalf of our board of directors and our nearly 1,000 member companies. I appreciate the opportunity to share written testimony in support of Senate Bill 486, which would amend the employment security law.

The Overland Park Chamber has been concerned for some time about the potential of the Kansas Employment Security Trust Fund becoming fully exhausted due to increased joblessness claims and lower investment returns caused by our current recession. Even with this general awareness of the Fund's probable insolvency in the "near future," our members were still shocked at the speed at which the rollback of recent tax reductions occurred and the magnitude of the unanticipated increase in their tax rate on their December bills. With some Kansas businesses seeing a double to quadruple-sized increase in their assessment, how can any company be expected to budget for this type of anomaly? And how can a company as it contemplates having to pay this exorbitant bill in the first and or second quarter of 2010, preserve its cash flow to ensure it can continue to do its business and keep its employees working? Finally, may some companies actually have to lay off workers in order to afford the increase?

It is with these concerns in mind that the Overland Park Chamber supports any effort of the Legislature that makes this tax rate increase more bearable for businesses. SB 486 would allow a business to pay 50% of the principal amount owed, and allow the remaining 50% of the principal, interest and penalties due to be deferred for another quarter with no additional interest or penalty being accrued. This small change in the law can help alleviate big concerns that some companies may be facing as they contemplate how to pay the assessment owed while still preserving their company's cash flow. This bill may also give companies more time to assess their budget situation and shuffle some priorities in order to avoid having to actually lay off workers to be able to pay for the tax increase.

In this fragile economy we need to be doing everything we can to help businesses grow and prosper. We urge you to support Senate Bill 486.

90(Senate Business & Labor Committee
t : 91 Date: February 10, 2010
Attachment 8



Testimony Re: SB 486 – Payment Options for Unemployment Tax
Senate Business and Labor Committee
February 10, 2010

Chairman Wagle and Members of the Committee:

My name is Don Sayler and I am the CEO for the Kansas Restaurant & Hospitality Association (KRHA). KRHA is the leading business association for restaurants, hotels, motels, country clubs and allied business in Kansas. Along with the KRHA Educational Foundation, the association works to represent, educate and promote the growing industry of hospitality in Kansas.

We appreciate the committee presenting payment options to deal with the significant tax increases that businesses have experienced. However, as we understand the calculation process for the experience rating determination, by deferring payments on taxes beyond June 30 would have a detrimental impact on rate determination for the following year. Possibly, the calculations can be modified to include taxes paid or payable so the future experience ratings are not impacted.

KRHA supports this effort in finding meaningful options to ease the UI tax burden experienced by many businesses for 2010.

Thank you for allowing me to provide testimony on this important issue.

8-2

Testimony regarding 2010 Senate Bill 486
Senate Business and Labor Committee
Jim Garner, Secretary
Kansas Department of Labor
10 February 2010

Chairwoman Wagle and members of the Committee:

Thank you for the opportunity to appear and share my comments regarding 2010 Senate Bill 486. Matters concerning unemployment taxes and the Trust Fund Solvency are of utmost importance to this administration. We continue to explore whether there are any administrative options available to provide some relief to employers concerning these matters.

Senate Bill 486 allows employers to defer payment of 50% of unemployment contributions due for a given quarter until the following calendar quarter. It permits this 50% deferral of payment over five quarters. In addition, during the deferral period, it states that “no additional interest and penalty shall accrue”. There are a few concerns to share about the bill as it is currently drafted.

The first concern involves the difference between the terms “penalty” and “interest” which is important to understand in any legislation dealing with the deferment of the payment of unemployment contributions.

A “penalty” applies when an employer **fails to file a quarterly wage report** by the last day of the month following the close of each calendar quarter.

“Interest” applies when an employer **fails to pay contributions** by the last day of the month following the close of each calendar quarter.

It is critical that the Quarterly Wage Reports be **filed** timely. The wage data on the reports is used in the calculation of a claimant’s unemployment benefits. If the wage credits are not reported, the claimant may not receive benefits. Therefore, so long as these reports are filed timely, “penalty” is not an issue. I would strongly urge that any legislation dealing with this topic apply solely to the waiver of interest for late payments and not the waiver of penalties for failing to timely file a quarterly wage report.

Second, Senate Bill 486 defers contribution payments over a period of five quarters. There are two dates having to do with the payment of the unemployment contributions that are very important: July 31st and January 31st.

July 31st – If contributions required in the first and second quarters are not made by July 31st, the Trust Fund will be affected as well as individual tax rates for the following year. Basically the contributions for employers for the fiscal year July 1st through June 30th and actually paid by July 31st, are used in the calculation the employer’s experience rating for

the next year. Consequently, any payment not received by July 31st would not be used in the calculation of the employer's tax rate for the next year, which could result in an increase in the employer's tax rate.

January 31st – the Federal Unemployment Tax Act allows employers to take credit against the FUTA tax for contributions paid to the state unemployment fund so long as those contributions are paid on or before the last day upon which the taxpayer is required to file a return for such year, which is January 31st of the following year. Therefore, if contributions due for any given calendar year are not paid by January 31st of the following calendar year, employer's credit on their FUTA tax will be reduced.

Our staff interpretation and reading of the bill indicated that some payments would be allowed into a different tax year. This would impact an employer's ability to claim the FUTA credit.

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