

MINUTES OF THE HOUSE COMMERCE & ECONOMIC DEVELOPMENT COMMITTEE

The meeting was called to order by Chairman Anthony R. Brown, at 1:30 p.m. on March 9, 2011, in Room 785 of the Docking State Office Building.

All members were present.

Committee staff present:

Ken Wilke, Office of the Revisor of Statutes  
Reed Holwegner, Kansas Legislative Research Department  
Raney Gilliland, Kansas Legislative Research Department  
Joyce Bishop, Committee Assistant

Conferees appearing before the Committee:

Kathie Sparks, Deputy Secretary, Kansas Department of Labor

Others attending:

See attached list.

Representative Slattery moved, seconded by Representative Tietze, to accept the minutes from the February 7<sup>th</sup>, 8<sup>th</sup>, 9<sup>th</sup>, 10<sup>th</sup>, 11<sup>th</sup>, 14<sup>th</sup>, 15<sup>th</sup>, 16<sup>th</sup>, 17<sup>th</sup>, 18<sup>th</sup>, and 21<sup>st</sup> committee meetings. The motion passed on a voice vote.

Chairperson Brown asked for a motion regarding **SB 77, Employment security law; interest payment assessment; duties of secretary.**

Representative Hedke moved, seconded by Representative Osterman, the bill be passed favorably by the committee.

Kathy Sparks, Deputy Secretary, Kansas Department of Labor, said the federal government will not approve the bill if it is amended.

Chairperson Brown asked if removing the ESAC Board would throw the bill out of compliance.

Kathy Sparks said yes. The bill is acceptable to the federal Department of Labor as it is currently, but the amendment that is to be introduced will cause it to no longer be acceptable. In particular, the balloons regarding the web-based system and state withholding for claimants is agreeable, as well as the language on the Pooled Money Investment Board. What the U.S. Department of Labor will not approve is the work share portion and the ESAC amendment.

Representative Slattery said the President's budget had included delaying interest payments for two years and deferring the FUTA tax. It would also raise the taxable wage base. If it passes, Kansas would have this in place and paying interest in the third year and would be able to do it without charging to the employer's accounts.

Chairperson Brown said the Committee wants to improve Unemployment Insurance. He asked if the Department of Labor should come back and work with the House and Senate to address this matter and introduce a bill that can be taken action on this year.

The proposed amendment was distributed to the committee (Attachment 1).

Representative Osterman moved, seconded by Representative Ruis, a substitute motion to accept the amendment.

Ken Wilke gave the revisor's overview of the amendment. He said if the committee does not adopt the language the committee would need to reinstate the language on lines 18-22 on page 68 of SB 77 in its current form.

Representative Brown said the balloon amendments can be divided.

Representative Osterman moved, seconded by Representative Ruiz, a substitute motion to accept the

amendment with the changes requested by the Department of Labor on page 68 of SB 77 in its current form.

Representative KleeB requested to divide the amendment into two sections; Section A, which would reinstate the \$8000 base wage in future years, and Section B, which would reinstate the reimbursement of the waiting week.

Section A of the motion carried on a 10 to 7 show of hands.

Section B of the motion failed on a 8 to 10 show of hands.

Representative Slattery moved, seconded by Representative Finney, to table the bill.

Chairperson Brown explained to the committee that it would take a majority vote to remove the bill from the table if the Slattery motion was approved. This is a time frame issue, and committee members need to be sure the Department of Labor will have an enacted bill soon.

The motion failed on a 5 to 14 show of hands.

Chairperson Brown moved, seconded by Representative Suellentrop, to make the bill effective upon publication in the Kansas Register, instead of July 1, 2011. The motion passed on a voice vote.

Representative Slattery moved, seconded by Representative Frownfelter, to reinstate the current statute with the trailing spouse provision. (Attachment 2). The motion failed on a voice vote.

Representative Suellentrop moved, seconded by Representative Mesa, to make the effective date of the amendment on the waiting week and trailing spouse provisions July 1, 2011. The motion carried on a voice vote.

Representative Sullentrop moved, seconded by Representative Peck, that SB 77 as amended, be passed favorably by the committee. The motion passed on a show of hands. Representatives Tietze, Frownfelter, Finney, and Slattery requested their votes to be recorded.

The meeting adjourned at 3:20 p.m.

HOUSE COMMERCE & ECONOMIC DEVELOPMENT COMMITTEE  
1:30pm,  
Room 785, Docking State Office Building

**GUEST LIST**

DATE: March 9, 2011

NAME	REPRESENTING
Kathie Sparks	KDOL
Inayat Noormohamad	KDOL
Andy Sanchez	KS AFL-CIO
Paje Routhier	Hein Law Firm
Nicholas Birdsong	Intern
Natalie Bright	KS SHRM
Jen Bruning	Of Chamber
Ron Sieber	KHFA
<del>DAVIDSON</del>	SBWC

1 wages shall be allocated to the week or weeks in which such wages,  
 2 in the judgment of the secretary, would have been paid. The term  
 3 "wages" shall not include:

4 (1) That part of the remuneration which has been paid in a  
 5 calendar year to an individual by an employer or such employer's  
 6 predecessor in excess of \$3,000 for all calendar years prior to 1972, in  
 7 excess of \$4,200 for the calendar years 1972 to 1977, inclusive, in  
 8 excess of \$6,000 for calendar years 1978 to 1982, inclusive, in excess  
 9 of \$7,000 for the calendar year 1983, and ~~\$8,000 with respect to~~  
 10 ~~employment during any calendar year following 1983 in excess of~~  
 11 ~~\$8,000 for the calendar years from 1984 to 2011 inclusive, in excess of~~  
 12 ~~\$9,000 for the calendar year 2012, in excess of \$10,000 for the~~  
 13 ~~calendar year of 2013, and in excess of \$11,000 for each calendar year~~  
 14 ~~following 2013, except that if the definition of the term "wages" as~~  
 15 ~~contained in the federal unemployment tax act is amended to include~~  
 16 ~~remuneration in excess of \$8,000 the amount stated herein paid to an~~  
 17 ~~individual by an employer under the federal act during any calendar~~  
 18 ~~year, wages shall include remuneration paid in a calendar year to an~~  
 19 ~~individual by an employer subject to this act or such employer's~~  
 20 ~~predecessor with respect to employment during any calendar year up~~  
 21 ~~to an amount equal to the dollar limitation specified in the federal~~  
 22 ~~unemployment tax act. For the purposes of this subsection (o)(1), the~~  
 23 ~~term "employment" shall include service constituting employment~~  
 24 ~~under any employment security law of another state or of the federal~~  
 25 ~~government;~~

26 (2) the amount of any payment (including any amount paid by  
 27 an employing unit for insurance or annuities, or into a fund, to  
 28 provide for any such payment) made to, or on behalf of, an employee  
 29 or any of such employee's dependents under a plan or system  
 30 established by an employer which makes provisions for employees  
 31 generally, for a class or classes of employees or for such employees  
 32 or a class or classes of employees and their dependents, on account of  
 33 (A) sickness or accident disability, except in the case of any payment  
 34 made to an employee or such employee's dependents, this  
 35 subparagraph shall exclude from the term "wages" only payments  
 36 which are received under a workers compensation law. Any third  
 37 party which makes a payment included as wages by reason of this  
 38 subparagraph (2)(A) shall be treated as the employer with respect to  
 39 such wages, or (B) medical and hospitalization expenses in

and in excess of 8,000 with respect to  
 employment during any calendar year  
 following 1983

\$ 8,000

1 employment if the individual is available for a number of hours per  
2 week that are comparable to the individual's part-time work experience  
3 in the base period.

4 For the purposes of this subsection, an inmate of a custodial or  
5 correctional institution shall be deemed to be unavailable for work and  
6 not eligible to receive unemployment compensation while incarcerated.

7 (d) (1) Except as provided further, the claimant has been  
8 unemployed for a waiting period of one week or the claimant is  
9 unemployed and has satisfied the requirement for a waiting period of  
10 one week under the shared work unemployment compensation program  
11 as provided in subsection (k)(4) of K.S.A. 44-757, and amendments  
12 thereto, which period of one week, in either case, occurs within the  
13 benefit year which includes the week for which the claimant is claiming  
14 benefits. No week shall be counted as a week of unemployment for the  
15 purposes of this subsection (d):

16 (A) If benefits have been paid for such week;

17 (B) if the individual fails to meet with the other eligibility  
18 requirements of this section; or

19 (C) if an individual is seeking unemployment benefits under the  
20 unemployment compensation law of any other state or of the United  
21 States, except that if the appropriate agency of such state or of the  
22 United States finally determines that the claimant is not entitled to  
23 unemployment benefits under such other law, this subsection (d)(1)(C)  
24 shall not apply.

25 (2) The waiting week requirement of paragraph (1) shall not apply  
26 to new claims, filed on or after July 1, 2007, by claimants who become  
27 unemployed as a result of an employer terminating business operations  
28 within this state, declaring bankruptcy or initiating a work force  
29 reduction pursuant to public law 100-379, the federal worker  
30 adjustment and retraining notification act (29 U.S.C. §§ 2101 through  
31 2109), as amended. The secretary shall adopt rules and regulations to  
32 administer the provisions of this paragraph.

33 ~~(3) a claimant shall become eligible to receive compensation for~~  
34 ~~the waiting period of one week, pursuant to paragraph (1), upon~~  
35 ~~completion of three weeks of unemployment consecutive to such~~  
36 ~~waiting period.~~

37 (e) For benefit years established on and after the effective date of  
38 this act, the claimant has been paid total wages for insured work in the  
39 claimant's base period of not less than 30 times the claimant's weekly

(3) a claimant shall become eligible to receive compensation for the waiting period of one week, pursuant to paragraph (1), upon completion of three weeks of unemployment consecutive to such waiting period.

1	1.000 but less than 1.025.....	1.00
2	0.900 but less than 1.000.....	1.01
3	0.800 but less than 0.900.....	1.02
4	0.700 but less than 0.800.....	1.03
5	0.600 but less than 0.700.....	1.04
6	0.500 but less than 0.600.....	1.05
7	0.400 but less than 0.500.....	1.06
8	0.300 but less than 0.400.....	1.07
9	0.200 but less than 0.300.....	1.08
10	0.100 but less than 0.200.....	1.09
11	Less than 0.100%.....	1.10

(B) *Adjustment to taxable wages.* ~~The (i) Except as provided in clause (ii), the~~ planned yield as a percent of total wages, as determined in this subsection (a)(3), shall be adjusted to taxable wages by multiplying by the ratio of total wages to taxable wages for all contributing employers for the preceding fiscal year ending June 30, except, with regard to a year in which the taxable wage base changes. ~~The taxable wages used in the calculation for such a year and the following year shall be an estimate of what the taxable wages would have been if the new taxable wage base had been in effect during all of the preceding fiscal year ending June 30.~~

The

~~(ii) For the calendar years 2012, 2013 and 2014, the planned yield as a percent of total wages, as determined in this subsection (a)(3), shall be adjusted to taxable wages by multiplying by the ratio of total wages to taxable wages for all contributing employers at the taxable wage base of \$8,000. Any revenue generated by increasing the taxable wage base above \$8,000 shall be in addition to the planned yield established pursuant to schedule III of this section. The provisions of this clause shall expire on December 31, 2014.~~

(C) *Effective rates.* (i) Except with regard to rates for negative account balance employers, employer contribution rates to be effective for the ensuing calendar year shall be computed by adjusting proportionately the experience factors from schedule I of this section to the required yield on taxable wages. For the purposes of this subsection (a)(3), all rates computed shall be rounded to the nearest .01% and for calendar year 1983 and ensuing calendar years, the maximum effective contribution rate shall not exceed 5.4%.

(ii) For rate year 2007 and subsequent rate years, employers who



*[As Amended by Senate Committee of the Whole]*

*As Amended by Senate Committee*

*Session of 2011*

**SENATE BILL No. 77**

By Committee on Commerce

1-31

Rep. Slattery  
Balloon Amendment 2  
March 9, 2011

1 AN ACT concerning the employment security act; creating an  
2 assessment for the payment of interest on advances received from  
3 the federal government; removing the waiting week extension;  
4 pertaining to benefits; amending K.S.A. 2010 Supp. 44-703, 44-  
5 704a, 44-705, 44-706, **44-710**, 44-710a and 44-717 and repealing  
6 the existing sections.

7  
8 *Be it enacted by the Legislature of the State of Kansas:*

9 *New Section 1. To provide for the payment to the United States*  
10 *treasury from the state employment security interest assessment fund*  
11 *for interest on loans made to the state employment security fund, for*  
12 *the purpose of paying interest due and owing on funds received from*  
13 *the federal unemployment account under title XII of the social*  
14 *security act. The pooled money investment board is authorized and*  
15 *directed to loan to the department of labor sufficient funds therefor*  
16 *in an amount or amounts which in the aggregate shall not exceed*  
17 *\$3,000,000 and such moneys shall be deposited in the state*  
18 *employment security interest assessment fund. The pooled money*  
19 *investment board is authorized and directed to use any moneys in the*  
20 *operating accounts, investment accounts or other investments, of the*  
21 *state of Kansas to provide funds for such loan upon approval of such*  
22 *loan by the state finance council acting on this matter which is*  
23 *hereby characterized as a matter of legislative delegation and subject*  
24 *to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c, and*  
25 *amendments thereto. The state finance council shall approve such*  
26 *loan on or before September 12, 2011. The pooled money investment*  
27 *board shall transfer the funds required by the department of labor on*  
28 *or before September 23, 2011, to allow the department of labor to*  
29 *make its interest payment on or before September 30, 2011. The loan*  
30 *shall not bear interest and shall be repaid on or before June 30, 2012.*  
31 *A copy of the terms of the loan shall be submitted to the director of*

House Commerce & Economic  
Development Committee  
Date: 03/09/2011  
Attachment #: 2-1

1 succeeding workday, if required by the employment agreement, after  
 2 completion of a given work assignment, shall constitute leaving work  
 3 voluntarily. The disqualification shall begin the day following the  
 4 separation and shall continue until after the individual has become  
 5 reemployed and has had earnings from insured work of at least three  
 6 times the individual's weekly benefit amount. An individual shall not be  
 7 disqualified under this subsection ~~(a)~~ if:

8 (1) The individual was forced to leave work because of illness or  
 9 injury upon the advice of a licensed and practicing health care provider  
 10 and, upon learning of the necessity for absence, immediately notified  
 11 the employer thereof, or the employer consented to the absence, and  
 12 after recovery from the illness or injury, when recovery was certified by  
 13 a practicing health care provider, the individual returned to the  
 14 employer and offered to perform services and the individual's regular  
 15 work or comparable and suitable work was not available. As used in  
 16 this paragraph ~~(1)~~ "health care provider" means any person licensed by  
 17 the proper licensing authority of any state to engage in the practice of  
 18 medicine and surgery, osteopathy, chiropractic, dentistry, optometry,  
 19 podiatry or psychology;

20 (2) the individual left temporary work to return to the regular  
 21 employer;

22 (3) the individual left work to enlist in the armed forces of the  
 23 United States, but was rejected or delayed from entry;

24 (4) the individual ~~spouse of an individual who is a member of the~~  
 25 ~~armed forces of the United States who~~ left work because of the  
 26 voluntary or involuntary transfer of the individual's spouse from one  
 27 job to another job, which is for the same employer or for a different  
 28 employer, at a geographic location which makes it unreasonable for the  
 29 individual to continue work at the individual's job. ~~For the purposes of~~  
 30 ~~this provision the term "armed forces" means active duty in the army,~~  
 31 ~~navy, marine corps, air force, coast guard or any branch of the military~~  
 32 ~~reserves of the United States~~

33 (5) the individual left work because of hazardous working  
 34 conditions; in determining whether or not working conditions are  
 35 hazardous for an individual, the degree of risk involved to the  
 36 individual's health, safety and morals, the individual's physical fitness  
 37 and prior training and the working conditions of workers engaged in  
 38 the same or similar work for the same and other employers in the  
 39 locality shall be considered; as used in this paragraph ~~(5)~~, "hazardous

individual