SESSION OF 2010

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2676

As Amended by Senate Committee of the Whole

Brief*

HB 2676 would amend the Employment Security Law regarding contribution rates, penalties, and interest. The bill would provide that for calendar year 2010 and 2011 the charge for contributing employers in rate groups 1 through 32 would be that of the 2010 original tax rate computation table. Contributing employers in rate groups 33 through 51 would be capped at a 5.4 percent contribution rate. In addition, employers would have 90 days past the due date to file their contribution without being charged interest for the first three quarters of each of the two years.

Background

Representatives from the Kansas Chamber, Kansas Society for Human Resources Management, the Arnold Group, Wichita Independent Business Association, and the LDF Companies appeared in support of the original bill. The Secretary of the Department of Labor expressed some concern with the bill. No one appeared in opposition to the bill.

The House Committee amended the bill by inserting certain provisions of HB 2644 into the bill.

The Senate Committee amended the bill as follows:

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*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at http://www.kslegislature.org

Legislative Coordinating Council (LCC) Attendance

The bill would require the Secretary of Labor to attend and present to the LCC an update on the status of the Unemployment Security Fund at each meeting between July 1, 2010 and December 31, 2011.

Surcharge for Payment of the Interest

The bill would require the Secretary of Labor to determine the interest payments for the following tax year on any planned or received borrowing from the federal government to maintain Unemployment Insurance Trust Fund solvency. In addition, the assessed interest payment assessment rate would be imposed on all employers and would be a flat percentage of each employer's current tax rate. If the amounts collected are in excess of the interest due to the federal government, the moneys would be maintained in the Employment Security Interest Assessment Fund to be used to pay interest in future years.

The Employment Security Interest Assessment Fund

The bill would establish the Employment Security Interest Assessment Fund in statute for the sole purpose of paying any interest the state would owe to the federal government for maintaining the solvency of the Unemployment Security Trust Fund.

Cap on Maximum Benefits until January 1, 2012

The bill would establish the maximum weekly benefit for any qualified individual at the amount determined by the Secretary of Labor on July 1, 2009 or the maximum weekly benefit determined by the Secretary on July 1, 2010, whichever is less for fiscal year 2011. For year fiscal year 2012, the amount determined on July 1, 2009 or the amount determined on July 1, 2011, whichever is less, would be the amount of maximum benefit allowed.

Deferral of the Waiting Week until January 1, 2012

The bill would defer the unemployment weekly payment for the waiting week, current law, until after December 31, 2011. (Current law provides for a waiting week payment.)

Deferral of the Trailing Spouse Benefit until January 1, 2012

The bill would defer the unemployment weekly benefit payment to trailing spouses until after December 31, 2011. Under current law, an individual who left work because of the voluntary or involuntary transfer of the individual's spouse from one job to another job, which is for the same employer or for a different employer, at a geographic location which makes it unreasonable for the individual to continue work at the individual's job and meets the other requirements to receive unemployment benefits are awarded benefits.

Employer Rate Recalculation

The bill would provide that for calendar year 2010 and 2011 the charge for contributing employers in rate groups 1 through 32 would be that of the 2010 original tax rate computation table. Contributing employers in rate groups 33 through 51 would be capped at a 5.4 percent contribution rate.

Negative Account Employers and Increased Surcharge

The bill would increase the rate groups for negative account employers, employers which have required benefit payments higher than these employers have paid into the system, to increase from ten groups to 19 groups. In addition, the maximum surcharge would be increased from 2.0 percent to 3.8 percent on top of the maximum rate of 5.4 percent.

The bill would provide that any revenue generated by increasing the taxable wage base above $8,000 would be in addition to the planned yield established in statute. (NOTE: The bill does **not** increase the taxable wage base above $8,000.)

Hardship Waiver and Deferring Employer Payments and Interest

The bill would provide for a hardship waiver for employer payments at the Secretary's or authorized representative discretion.

Finally, the bill would provide for employers to be able to make payments of 50 percent of the required payment on or before April 30 and the balance of such payment on July 31 without incurring any interest on the amount paid on July 31 for calendar years 2010, 2011 and 2012. This provision would expire on December 31, 2012.

The Senate Committee of the Whole voted not to adopt the Conference Committee report of the Senate Committee. The Senate worked the House Committee bill and amended it by deleting the last quarter payment option of a 90 day grace period to conform to federal requirements and to delete the exemption for the penalty provision because penalty in Employment Security Law goes to the filing of the reports not to the payment of taxes due.

According to the Department of Labor in the fiscal note, enactment of the original HB 2676 would reduce both the amount of funds collected for the Unemployment Insurance Trust Fund from employer contributions, as well as the amount of interest earned from calendar year 2010 through 2017. The following table illustrates these amounts:

Calendar Year	Contributions Effect	Interest Effect	Fiscal Effect on Trust Fund
2010	$(43,3;68,265)	$(5,853,352)	$(49,221,617)
2011	(63,562,627)	(7,846,988)	(71,409,615)
2012		(3,870,898)	(3,870,898)
2013		(3,849,513)	(3,849,513)
2014		(4,298,622)	(4,298,622)
2015		(4,715,652)	(4,715,652)
2016		(4,982,979)	(4,982,979)
2017		(5,132,683)	(5,132,683)

In addition, the agency estimates the Penalty and Interest Fund would experience reduced revenues of $136,000 in FY 2010 and $81,250 in FY 2011 as a result of deferring payments. Because this revenue is used to pay for administrative costs for the Unemployment Insurance Program, the agency would have to find another revenue source to finance these ongoing administrative costs. Any fiscal effect associated with HB 2676 is not reflected in *The FY 2011 Governor's Budget Report.*