

Approved: 2/15/10

Date

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE

The meeting was called to order by Chairman Steve Brunk at 9:10 a.m. on January 20, 2010, in Room 784 of the Docking State Office Building.

All members were present except:

Representative Sean Gatewood - excused

Representative John Grange - excused

Committee staff present:

Art Griggs, Office of the Revisor of Statutes

Renae Jefferies, Office of the Revisor of Statutes

Jerry Donaldson, Kansas Legislative Research Department

Dennis Hodgins, Kansas Legislative Research Department

Stephen Bainum, Committee Assistant

Conferees appearing before the Committee:

Dan Murray, Federico Consulting

Jim Garner, Secretary, Department of Labor

Others attending:

See attached list.

The meeting was called to order at 9:10 a.m. by the Chairman Steve Brunk.

Dan Murray of Federico Consulting introduced a bill on Fire Sprinkler Safety. It was received without exception.

Jim Garner, Secretary, Department of Labor gave the Committee an update of the activities within the Kansas Department of Labor during the past several months. He spoke about the increase in the work load for the Department under the Unemployment Insurance (UI) Program because of the increase in unemployment in Kansas. The unemployment Contact Center Operations has tripled the number of employees and implemented mandatory overtime. They have continued efforts to encourage Kansans to go online to file their UI claims. The modernization project continues with several accomplishments this year. The Unemployment Insurance Trust Fund has been impacted by the high unemployment. Kansas employers received notices in the mail in mid-December advising them of their new contribution rates. These contributions are made on a quarterly basis. The first payments under the new tax rate will be received in April 2010. The Trust fund balance as of the week ending January 9, 2010 was \$65.2 million. We started 2009 with a Trust Fund balance of 566.5 million. We likely will exhaust these funds sometime in February. Secretary Garner concluded his remarks by listing some of the Services that the Department of Labor provides. He agreed to return tomorrow to explain the 2010 Kansas Unemployment Insurance Tax Rates (Attachment 1).

The next meeting is scheduled for January 21, 2010.

The meeting was adjourned at 10:28 a.m.

COMMERCE & LABOR COMMITTEE

DATE: 1-20-10

NAME	REPRESENTING
Kendra Hanson	Hein Law Firm
Jim GARNER	KDOL
Dan Murray	Federico Consulting
Gene Meyer	KANSAS REPORTER
Joe Vinick	KDOL
Bob Lieve	KDOL
Judy Macy	KDOL/NI
Inayat Noormohamad	KDOL
Diana Ashwill	KDOL
TED HEARL	CAPITOL STRATEGIES.
Megan Bottenberg	KDOL
Bruce Turrell	AFL-CIO
Natalie Bright	KS-SHRM
Steve Mock	SRB
Dany Sanchez	KS AFL-CIO
Chad Manspecker	Laborers' 1290
James Washburn	Wichita Chamber
[Signature]	KS CHAMBER
Michelle Colombo	KS chamber

**Testimony on the Kansas Department of Labor
to
House Commerce and Labor Committee**

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

20 January 2010

Chairman Brunk and Members of the Committee:

Welcome back and thank you for providing me the opportunity to present an update of activities within the Kansas Department of Labor during the past several months.

The agency has many responsibilities. It administers the unemployment insurance program—processing claims for benefits and collecting unemployment taxes to fund the system. The Division of Workers Compensation operates the state's worker compensation system. Our Industrial Safety and Health division offers free workplace safety consultations for private employers and oversees job safety involving public employees. We enforce the employment laws for Kansas—including Child Labor laws and the Wage Payment Act. The agency's Labor Market Information Services is the research unit which compiles data on the workforce and industries in Kansas. The agency also oversees the Public Employer-Employee Relations Act and the Professional Negotiations Act. Our customers are the 73,000 employers and the more than 1.4 million workers in Kansas.

Unemployment Insurance Program

When the economy worsens, our workload in the Unemployment Insurance (UI) Program increases. We have definitely seen that occurrence over the past year as the UI program has worked with thousands of Kansans to ensure they have unemployment benefits.

Given the increase in unemployment nationally and within Kansas, we are now administering four extended benefit programs – more than at any time in the history of the Unemployment Insurance program. I have included in the appendix a chart that outlines the progression of UI Benefit programs. In total, these extended benefit programs may provide out-of-work Kansans up to 60 weeks of additional UI benefits, in addition to the regular 26 weeks of benefits.

The UI program has proven to be a valuable tool in helping our nation and our state deal with this historic recession. The Unemployment Insurance program serves many purposes. It provides a safety net for laid off workers – temporary income support after a lay off. The program also helps to stabilize the economy in times of recession. And the program helps keep unemployed trained workers attached to the Kansas labor market.

From January 1, 2009 to December 31, 2009, Kansas paid out approximately \$766,771,767 in regular program UI benefits. In addition, we have paid \$343,989,234 in Emergency Unemployment Compensation benefits and \$17,952,133 in Extended Benefits. This is money that helps Kansas families pay mortgages, rents, utilities, bills and put food on the table. It also puts a significant amount of money circulating in the economy. This program is demonstrating its value in this recession.

We have processed approximately 298,620 initial claims and 2,366,839 continued claims for regular program UI benefits. There were 58,205 initial claims and 852,761 continued claims for EUC, and 6,907 initial claims and 54,339 continued claims for State Extended Benefits program.

Impact of American Recovery and Reinvestment Act

The American Recovery and Reinvestment Act is playing a key role in assisting out-of-work Kansans.

- The Federal Additional Compensation (FAC) provision provides an additional \$25 a week in unemployment benefits. Between February 22, 2009 and January 2, 2010, we have provided Kansans with more than \$75 million pursuant to this provision.
- The deadline to apply and qualify for federal Emergency Unemployment Compensation (EUC) was extended from March 31, 2009 through the week ending December 26, 2009 through the Recovery Act. In December, the deadline was once again extended to February 28, 2010. Since April 1, 2009, we have provided Kansans with nearly \$267 million in EUC benefits. Funding for EUC benefits is provided through the federal government and does not impact the State's UI Trust Fund.
- Kansas received federal funds to assist in administering the State's UI program. The total of those funds expended to date for administration and benefit implementation is \$3,048,808.
- The State Extended Benefits program was triggered in 2009 when the state's seasonally adjusted total unemployment rate reached 6.5 percent or more for three consecutive months. Typically these benefits are funded partially through the state's UI Trust Fund and partially from federal funds. Through a Recovery Act provision, state extended benefits will be funded wholly through federal funds up to Feb. 28, 2010. Since September, we have paid out nearly \$18 million in state extended benefits.

Unemployment Contact Center Operations

This unprecedented demand for UI benefits has created challenges in the Contact Center. Our Unemployment Contact Center is just one way we provide service to claimants. We also provide services through our online applications, our automated weekly claims telephone lines, our quick claim IVR, the Work Share program and other avenues. Here are some of the measures we are taking, or have taken, to help address the increase workload:

- **Staffing.** We've tripled the number of employees in our call center in 2009, from 33 in January to 95 in December. We also have implemented mandatory overtime and have used voluntary overtime on certain holidays.
- **Reorganization.** We restructured the Call Center into phone queues staffed by service reps trained to answer specific questions. Our interactive phone system asks the caller to identify the purpose for their call and directs them to the appropriate queue. This has helped significantly reduce the wait time for people wanting to file an initial claim and

for those with questions regarding their EUC claims. However, because the vast majority of questions are general inquiry in nature, and because those types of questions require the highest level of knowledge and expertise, it has been difficult to quickly train new hires to staff this queue.

- **Adjudications.** Approximately one out of three claims goes to adjudication, where KDOL staff try to resolve unanswered questions, disputed or incomplete information and other issues involving a claim. Often this involves scheduling a call with the claimant, calling employers and tracking down additional information. Because of the volume of claims, our adjudicators are struggling to keep up with incoming cases. We've trained some of the most veteran Call Center reps to now be adjudicators. This has helped our adjudications backlog significantly and has reduced the time to reach a determination on an adjudication from 10 weeks to seven weeks.

We have continued efforts to encourage more Kansans to go online to file their UI claims. We launched a marketing campaign in print, online, television and radio to promote filing online. We created an easy URL for claimants to remember: www.GetKansasBenefits.com, and redesigned and simplified the online application.

Earlier this year, staff were hired and placed at four Kansas workforce centers to assist people who want to file their initial and weekly claims online. Those efforts have proven quite successful. We have also created a desk guide and are currently developing an online tutorial to further assist those who want to file their claims online.

We continue to look for ways to reduce the congestion in our call center and better serve our claimants. We are working to introduce new measures to help get needed information to claimants in a timely manner so we can reduce the number of calls to the call center.

Unemployment Insurance Modernization (UIM) project

The past year's challenges in the UI program and the Contact Center have certainly reconfirmed the need for and validity of the Unemployment Insurance Modernization (UIM) project. This project will create and implement a new modern, customer-focused, operating system for our UI program. This past year we began the Build and Deploy phase of the project.

Let me share some of the recent accomplishments of the project:

- *UI Debit Cards*—On November 17, 2008, KDOL got out of the check-writing business. We now make all payments using debit cards. This change means significant savings for our agency. It was initially estimated to save \$300,000 annually in operational costs. However, given the surge in unemployment claims, the savings has topped \$1 million in the first year.
- *Federal New Hires Fraud Cross-Match*—We implemented and began cross-matching federal new hires data to claimant information. This will improve the detection of possible fraud.
- *Automatic Registration*—Anyone who applies online or by phone for unemployment benefits is now automatically registered with KANSASWORKS.com. We launched this program in July 2009. Through the new registration process, Kansans who apply for UI benefits online or by phone will automatically be issued a username and password for a personal account at KANSASWORKS.com, where they can search job openings, post an online resume, save job searches and receive e-mail updates. The new process is the

result of collaboration between the Kansas Department of Labor and the Kansas Department of Commerce, which maintains KANSASWORKS.com and KANSASWORKS statewide career services system for job seekers.

- *Customer service projects*—Recognizing the importance of our customers' feedback, in November 2009 we added a customer survey to the online initial application. We now gather the claimant feedback and use it for future enhancements to the online site as well as other customer service applications. In addition, we conducted a series of focus groups in December with claimants who had filed for unemployment online. The feedback from those focus groups will be used to help us further refine the online filing process.

We have also been able to implement certain parts of the project that directly assist in meeting the increased workload issue:

- *Change personal information*—Claimants can now update their address, phone number, and e-mail address online. This reduces the number of calls to the Contact Center.
- *Reset username and password online*—Our customers now have access to their online account to reset their username and password. This too reduces Contact Center calls.
- *Streamlined online application*—We have streamlined the online application making it easier to understand and take less time to complete.
- *Fax server*—KDOL has implemented a fax server at the Contact Center. This electronically routes information faxed into the agency. The goal is to eliminate manual work and distribute information more quickly.

In December we successfully completed Sub Project I of the Build and Deploy phase, which included implementation of a number of key programs and systems that lay the foundation for the new UI operating system. We will complete Sub Project II in February 2010. In Sub Project II, we plan to bring our Web infrastructure up to current standards to provide a solid base on which to build additional functionality and deploy a new Web server to improve performance and enhance security. We will soon begin Sub Project III, during which we will migrate information from our current mainframe system into the new Web based system, which we plan to complete later this year. I will continue to update the Joint Committee on Information Technology as we move forward on this project.

Unemployment Insurance Trust Fund

The Unemployment Insurance Trust Fund is funded by employers' contributions through the unemployment insurance tax and the interest earned from that money.

Under state law, if the balance of the Trust Fund on July 31 of the current year meets the state's average high cost multiple, employers can be granted a reduction in their contribution amount for the coming calendar year. Kansas' average high cost multiple threshold is 1.2, which means the balance of the Trust Fund is sufficient—without additional revenue—to provide benefits for 1.2 years at a rate equivalent to the rate during the worst three quarters of the past 20 years. These reduced contribution rates have been in place in Kansas for the past three years, saving Kansas employers an estimated \$286 million.

Given this impact to the Trust Fund, we no longer meet the statutory trigger to offer reduced contribution rates in CY 2010. We are back to the standard employers' UI contribution rates set out in statute. A number of factors are used to determine the unemployment tax rates including length of time in business, experience rating and level of the Trust Fund balance. I have attached

A Guide to Understanding Kansas Tax Rates 2010 in your appendix that outlines how these rates are calculated for employers.

Kansas employers received notices in the mail in mid-December advising them of their new contribution rates. Each employer's tax rate will be different based upon their unique circumstances. However, the average tax rate in 2009 was 0.49% of total wages—that was with the tax reductions in place. The estimated tax rate for 2010—when the reduction will no longer be in place is 1.02% of total wages. In terms of taxable wages, the average 2009 tax rate was 2.02%; the average 2010 estimated tax rate on taxable wages is 4.37%. (Unemployment taxes are assessed on the first \$8,000 of wages paid per employee.) Of course some employers will pay less than this rate and others will pay more. Many positive balance experience rated employers will be paying at the maximum rate of 5.4% in CY 2010. In addition, employers with negative account balances will pay up to 7.4%—a surcharge of 0.2% to 2.0% is assessed based the employer's particular experience.

These contributions are made by employers on a quarterly basis. The first payments under the new tax rates will be received in April 2010. These funds are used to pay UI benefits to out-of-work Kansas employees who qualify for unemployment benefits.

Our Trust Fund balance as of the week ending January 9, 2010 was \$65.2 million. We started 2009 with a Trust Fund balance of \$566.5 million. We are likely to exhaust these funds sometime in February.

Trust fund solvency is a national situation. To date, 25 states have had to borrow funds from the federal government to cover unemployment claims. Attached is a list of those states. It is predicted that as many as 35 states will be borrowing by the end of 2010.

Last year at this time, the U.S. Department of Labor listed Kansas 19th among 53 states and territories in terms of trust fund solvency. Since that time, the outflow of benefits from the UI Trust Fund has increased to an unprecedented level over a short time span. Prior to the current recession, the highest monthly benefits payment amount was \$39 million in July 2003. In June 2009 that figure had increased significantly to \$78 million.

The Employment Security Advisory Council (ESAC), a group comprised of members from the business community, labor organizations and economists from our universities, is charged with providing recommendations and solutions to the Labor Secretary. The ESAC has been meeting to develop a recommendation for the Legislature on how to rebuild the Trust Fund and pay off any federal loans that may be needed. I will keep you apprised of any action ESAC taken.

Labor Market Information Services

Our Labor Market Information Division operates pursuant to a cooperative agreement with the U.S. Bureau of Labor Statistics and in accordance with BLS guidelines the Division compiles statistics on the labor market in Kansas—estimates on the labor force, employment levels, unemployment rates, wages paid, and projections of future occupation trends. Here are some highlights of the services LMIS offers.

Kansas Labor Market Statistics

Each month, we release the monthly labor statistics report which provides unemployment rates, job numbers and metro area and county data.

- According to November 2009 estimates, Kansas businesses lost 60,100 jobs over-the-year, a 4.3 percent decrease. However, Kansas business gained 700 jobs over-the-month in November, a 0.1 percent increase.
- The November 2009 unemployment rate was 6.2 percent, down from 6.3 percent in October and up from 4.7 percent in November 2008. The national unemployment rate in November was 10%.
- Four of the 11 major industries reported modest over-the-month job gains in November. Most of these gains were in trade, transportation and utilities, specifically a seasonal gain in retail trade.
- Manufacturing lost 26,100 jobs over the year, a 13.9 percent decrease. The majority of losses in this industry were in durable goods manufacturing, specifically in aerospace production. Professional and business services lost 15,100 jobs over the year, a 10.2 percent decrease. The majority of losses in this area were in administrative support services. Trade, transportation and utilities lost 8,800 jobs over the year, a 3.3 percent decrease. The majority of losses in this industry were in retail trade.

Recent LMIS publications

- 2009 Kansas Economic Report—The 2009 Kansas Economic Report, which reviews data from CY 2008. It presents a picture of an economy that is a different world from the one we are living in now. The Report provides a measure of how the Kansas economy was performing through 2008, and coupled with information from previous reports helps to give a “big picture” view of our economy’s ups and downs. This year’s report also includes a new section about Kansas’ green economy—a topic that is sparking interest in policy decisions and conversations across the country.
- 2009 Kansas Wage Survey—According to the Kansas Wage Survey 2009 edition, the 10 highest paying jobs in the state are all health care related. Surgeons top the list at an average hourly rate of \$104.56, surpassing the national average hourly wage for the same occupation, which falls at \$99.41. The lowest paying occupations in Kansas are counter attendants, cafeteria, food concession and coffee shop workers at \$7.56 an hour. Overall, wages in Kansas increased from 2007 to 2008, with the average hourly wage rising from \$17.45 to \$18.10. This remains \$2.22 less than the 2008 national average hourly wage of \$20.32. Average Kansas wages fall in the midpoint among other states in the region. Kansas has a higher average hourly wage than Nebraska and Oklahoma, but less than Missouri and Colorado.

I have enclosed brochures concerning several of these reports.

Green Jobs Survey effort

We are currently completing work on the Green Jobs Survey. This survey will identify current and emerging green occupations in Kansas. The goal is to provide training guidance so that we can better prepare the future workforce for the needed jobs. We surveyed 6,003 employers in Kansas. We have received an approximate 55% response rate allowing us to begin analyzing the data.

Workers Compensation

Members of the committee will soon receive a copy of the FY 2009 statistical report from KDOL’s Division of Workers Compensation. Some highlights from the report:

- KDOL received more than 63,130 occupational illness and injury reports.

- KDOL processed 16,378 applications for hearings.
- KDOL responded to 41,000 requests for workers compensation histories.
- KDOL recovered \$283,464 in restitution and penalties.
- KDOL's Division of Workers Compensation Ombudsman section provided information to 20,572 parties.

There were 63,130 occupational injuries and illnesses reported to the Workers Compensation Division during FY 2009. This is a 10.15% decrease from the previous year's total. From another perspective, 173 employees per day were either injured or killed on the job in Kansas last fiscal year. Workplace fatalities decreased 21% from the previous year (34 deaths in FY 2009), less than the 14-year average of 53.8 reported deaths.

Workers compensation rates for 2010

On November 3, the National Council on Compensation Insurance (NCCI) hosted its annual "State Advisory Forum." They presented a report showing Kansas Workers Compensation market is very stable. Approved Workers Compensation premium rates for 2010 will be an overall average rate reduction of 6.1%. All industry groups will see some type of reduction—from 1.0% reduction overall in Contracting to 8.1% overall reduction in Goods and Services. Of course, some individual employers will see rate increases based on their particular experience, but the overall premium rates will be declining for 2010.

This is definitely good news. The only state in our region with a larger rate reduction is Colorado with a 9.3% overall rate reduction. Oklahoma will have a 7.0% overall rate increase for 2010. Missouri will have a 1.9% reduction. Nebraska will have a 3.2% reduction while Iowa will have a 2.3% increase.

Workplace safety and health programs

KDOL is committed to making workplace safety a top priority for the State of Kansas. It is important for employers to have a variety of services available to them to prevent injuries and illnesses in the workplace.

Kansas has two programs that recognize employers and businesses for their dedication to workplace safety.

- ***The Safety and Health Achievement Recognition Program (SHARP)*** is a partnership with OSHA designed to recognize businesses that have worked with KDOL to develop exemplary safety programs. These are the premier—best of the best—worksites for safety. Companies that achieve the SHARP designation are exempt from OSHA inspections for two years. Kansas has the second most SHARP worksites in the nation.
- ***The Kansas State Safety Award Program (KSafe)*** recognizes private employers across the state who are dedicated to providing safe work environments for their employees and who have reached major milestones in their safe operations (100,000 hours, 500,000 hours and 1 million work hours without a lost time injury). The awards are given based on the number of hours an employer has avoided a workplace injury.

I have provided in the appendix a list of the KSafe recipients for 2009 and the SHARP recipients for 2009.

We also want to reach more employers and offer them our services. We are directly marketing our safety consultation services to high-risk employers. The high-risk employers are those with high incidence of reported injuries and accidents. Our Communications and Marketing Division have designed all of our marketing materials—a letter, postcards, and brochures. We've been successful so far. Of the 310 employers identified and with four mailings in 2009 over five percent of those employers requested consultations. We intend to continue this effort in 2010. We were invited to make a presentation on our direct marketing campaign to the OSHA Consultation Conference in April in San Diego.

In 2008, a bill was passed and signed into law requiring inspections for amusement park rides. Since that time, we have formulated rules and regulations as guidelines for these inspections. The regulations have been approved by the Kansas Department of Administration and the Attorney General's office. We will conduct a public hearing for these regulations on Friday, February 19.

Employment Standards

The Employment Standards section of the Kansas Department of Labor had a record year in 2009. There were 1,204 new claims for wages received in 2009, compared to 1,297 in 2008. The number of dollars collected far exceeds the 2008 total. In 2008 we collected \$970,676 and in 2009 we collected nearly \$2.3 million in unpaid wages. A total of 340 Wage Payment Act administrative hearings have been held this past year. Additionally, our Legal division spearheaded a PEERA CLE presentation, the first statewide presentation on PEERA in decades.

Conclusion

I hope this brief, yet thorough, account of some of the activities within the Kansas Department of Labor since the end of the last legislative session has been informative and helpful.

Again, thank you for the opportunity to appear and share this information with you and the members of the committee. If you have any questions, I would be glad to respond.

Attachments:

- Recovery Funds at a Glance (2009)
- Trust Fund balance during 2009
- Guide to Understanding Kansas UI Tax Rates
- Wage Survey brochure
- Employment Security Advisory Council Members
- KSafe recipients for 2009
- SHARP comparison by state
- SHARP recipients for 2009