

MINUTES OF THE HOUSE APPROPRIATIONS COMMITTEE

The meeting was called to order by Chairman Marc Rhoades at 9:05 a.m. on January 20, 2011, in Room 346-S of the Capitol.

All members were present:

Representative Denning – Excused  
Representative Lane - Excused  
Representative Shultz - Excused

Committee staff present:

Alan Conroy, Kansas Legislative Research Department  
J.G. Scott, Kansas Legislative Research Department  
Jim Wilson, Office of the Revisor of Statutes  
Nobuko Folmsbee, Office of the Revisor of Statutes  
Jarod Waltner, Kansas Legislative Research Department  
Shirley Morrow, Kansas Legislative Research Department  
Cindy O'Neal, Administrative Assistant, Appropriations Committee  
Kathy Holscher, Committee Assistant, Appropriations Committee

Others attending:

See attached list.

- Attachment 1 Department of Transportation Overview
- Attachment 2 Department of Labor Overview

Chairman Rhoades welcomed committee members and reviewed the committee agenda for today's meeting, and stated that the committee will begin work on **HB 2014** on Monday, January 24, 2011.

Representative McLeland made a motion to introduce legislation that would eliminate the state match for new construction for K-12 . The motion was seconded by Representative DeGraaf. Motion carried.

Representative Kleeb made a motion to introduce legislation that would create a privatization process in the state. The motion was seconded by Representative DeGraaf. Motion carried.

Deb Miller, Secretary, Department of Transportation, presented an overview of the department, (Attachment 1). She emphasized the importance of the department's role regarding community connections, and moving the economy forward, and safety. Secretary Miller reviewed the Comprehensive Highway Program (CHP), Interim Projects, and the Comprehensive Transportation Program (CTP), which focused on the preservation of our state roads and highways. A review of the State Highway revenue and expenditures followed. A major funding source comes from the Motor Fuels Tax and Federal funds, and expenditures are primarily due to highway construction projects and local programs such as snow removal, minor patching and mowing. She explained the budget process involved for new construction projects and debt service payments. An overview of the T-Works program was provided. This program allocation of \$7.9 million provides for preservation, modification and expansion for transit, aviation, rail, and special city and county highway initiatives fund (SCCHIF) services. She noted that this program is geared toward economic growth in jobs and investments through an improved bid selection process, re-tooled programs and expanded partnerships. Secretary Miller discussed the State Highway Fund transfer of \$200 million to the State General Fund. Secretary Miller reviewed staffing issues and stated that under the Governor's budget proposal an additional 138 unfilled positions will be eliminated.

Secretary Miller responded to questions from committee members. She stated that in FY 2004, the debt service was refinanced at a value savings to the state and will be paid out in FY 2013. A review of unfilled positions, Hwy 69, US 169 projects, and management expenses followed.

Karin Brownlee, Acting Secretary, Department of Labor, presented an overview of the activities within the department, (Attachment 2). In 2010, over \$1.2 billion was paid out in unemployment insurance benefits and she referred to the tiers for compensation and extended benefits. Due to the unprecedented workload, there is a need to implement new strategies for improvement to address responses to claimant inquiries, she stated. The Unemployment Insurance Modernization project (UIM) has saved the state \$300,000 annually in operating costs due to payments no longer in check form but through debit cards, enhanced fraud detection, automatic registration and customer service survey for future enhancements. Areas for

## CONTINUATION SHEET


Minutes of the House Appropriations Committee at 9:05 a.m. on January 20, 2011, in Room 346-S of the Capitol.

future development included: providing excellent customer service, on-line customer service is available 24 hours and seven days per week, and an improved server environment to handle the volume of calls. Acting Secretary Brownlee reviewed the trust fund, which was depleted in FY 2009. Over \$755 million has been paid out from the Kansas employers fund and over \$350 million has been paid out in borrowed federal dollars. An interest payment will come due in September, which could come from an additional surcharge from employers or the elimination of the waiting week for benefits. Kathy Sparks, Deputy Secretary, Kansas Department of Labor, stated that this surcharge would represent an estimated .01% increase for employers. Worker's Compensation claims have continued to decline, Acting Secretary Brownlee noted.

Acting Secretary Brownlee introduced Inayat Noormohmad, Director of Labor Market Information Systems & Unemployment Insurance Division, Kansas Department of Labor. He reviewed the impact on the job market due to the recession, and he compared data for current and prior recession unemployment insurance claims. Inayat Noormohmad noted that the decline in benefits from 2009 to 2010 was due to shifts from state to federal benefit programs. Due to the depletion of the trust fund, it was necessary to borrow \$88.2 million, an additional \$3 million was borrowed yesterday, and an estimated \$100 - \$130 million will need to be borrowed by the end of 2011, he reported. He added that the interest payment on borrowed federal dollars will be due in September, and that there is no deadline for repaying the principal unless state has borrowed federal money within two consecutive months in January.

Acting Secretary Brownlee and Inayat Noormohmad responded to questions from committee members regarding procedures for following up on claimants employment seeking efforts, benefits charged to the employer and federal dollars borrowed for computer projects. It was noted that a review of data was necessary for the department to adequately investigate and reduce fraudulent claims.

The meeting was adjourned at 10:35 a.m.



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Marc Rhoades, Chairman

# APPROPRIATIONS COMMITTEE GUEST LIST

DATE: 1-20-11

NAME	REPRESENTING
Pipe Routhier	Hein Law Firm
Berend Koops	Hein Law Firm
Ligh Keck	Capitol Strategies
Ben Cleaves	KDOT
Rob Meach	KEMARK & Assoc.
Lindsey Douglas	KDOT
Joe Erskine	KDOT
Ben Cleaves	KDOT
Deb Miller	KDOT
Spencer Duncan	KPTA
Conor Meyer	Kansas Reporter
Harim Browder	KDDL
Mayat N.	"
Hattie Sparks	"
Scott Heidner	Geeher Broder



Kansas Department of Transportation

**HOUSE APPROPRIATIONS  
COMMITTEE**

January 20, 2011

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**Transportation is a means to an end:**

It's about...

enhancing **safety**

supporting **the economy**

creating **jobs**

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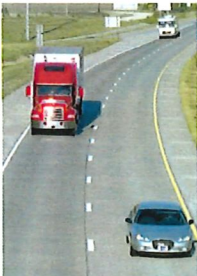
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**Transportation Moves People  
and the Kansas Economy**



10,000 miles of state highways

2 million+ registered vehicles

Nearly 2 million licensed drivers

\$160 billion+ of goods shipped  
to, from and within Kansas  
each year

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Appropriations Committee

Date January 20, 2011

Attachment 1



### KDOT's Resources Strategically Deployed

2,200 employees in 6 districts / 26 areas  
Road maintenance and construction inspection

900 employees at headquarters  
Planning and local projects  
Road and bridge design  
Aviation, rail, and transit services  
Signs, access, and speed limits

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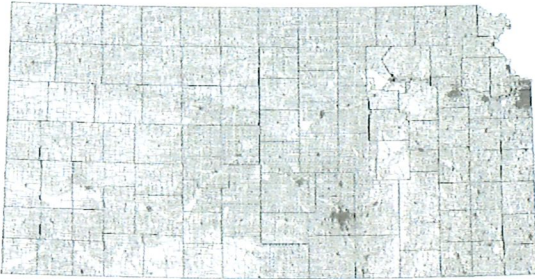
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### The Kansas Highway System: 130,000 miles of local roads & 20,500 bridges




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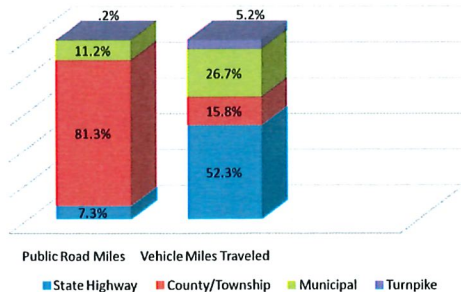
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### Kansas Public Road Miles and Vehicle Miles of Travel – by Jurisdiction




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Appropriations Committee

Date January 20, 2011

Attachment 1-2

### 30 Years of State Transportation




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### 30 Years of Transportation

- Comprehensive Highway Program (CHP)
  - 1989-1997
  - Focused on preservation
  - First time state funded transit
- Comprehensive Transportation Program (CTP)
  - 2000-2009
  - Focused on expansion
  - First time state funded aviation and rail
- T-Works
  - 2010-2020




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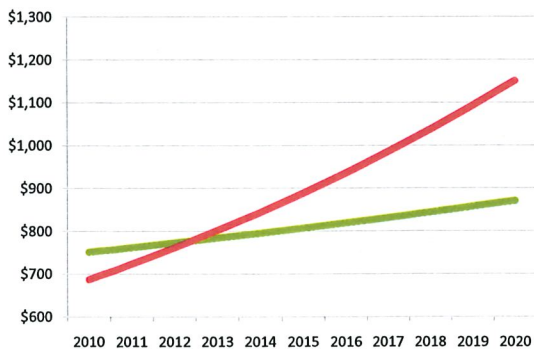
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### Revenues v. Inflation




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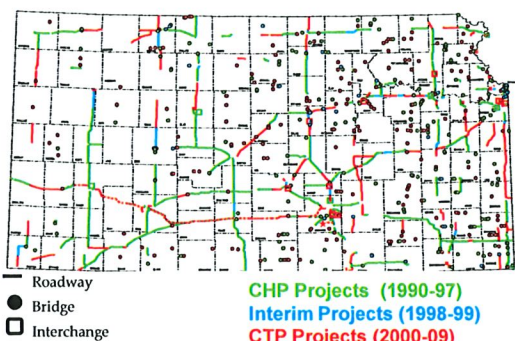
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Appropriations Committee

Date January 20, 2011

Attachment 1-3

### Highway Projects from 1990-2009




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### KDOT Financial Resources

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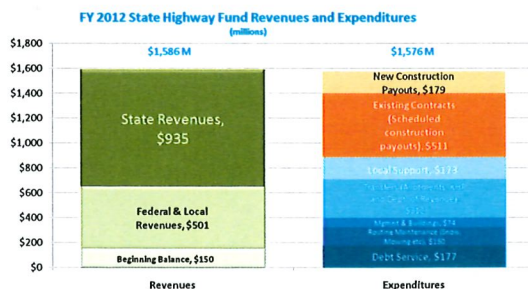
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### Revenues and Expenditures




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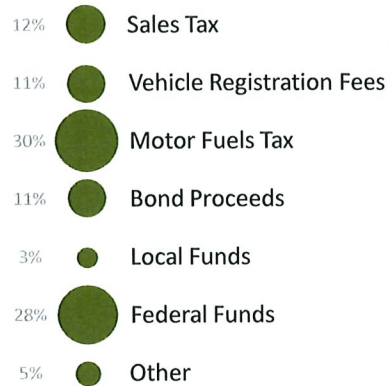
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Appropriations Committee

Date January 20, 2011

Attachment 1-4

**State  
Highway  
Fund  
SOURCES  
'00-'09**




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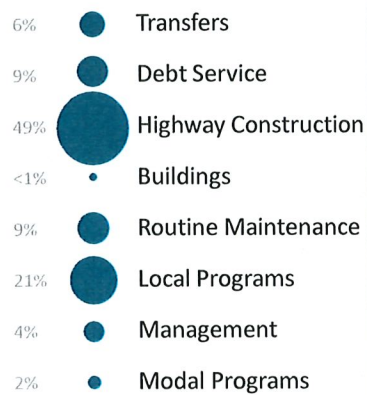
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**State  
Highway  
Fund  
EXPENDITURES  
'00-'09**




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**Update**




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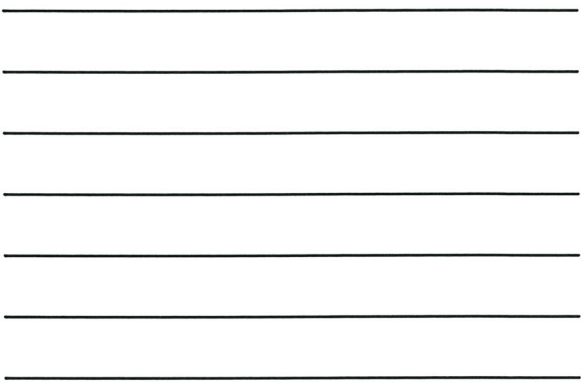
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Appropriations Committee

Date January 20, 2011

Attachment 1-5





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**TWORKS** Preservation Update

- Preservation back on track
- Excellent bid prices
- Selection based on engineering

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Expansion & Modernization Spending

\$75 <sup>to</sup>	\$100 <sup>to</sup>	\$500 <sup>to</sup>
\$125	\$200	\$800
\$100 <sup>to</sup>	\$300 <sup>to</sup>	\$125 <sup>to</sup>
\$150	\$600	\$225

Total Available Statewide \$1.7B

TOTAL Highway Spending

\$675 <sup>to</sup>	\$700 <sup>to</sup>	\$1,700 <sup>to</sup>
\$925	\$1,000	\$2,300
\$450 <sup>to</sup>	\$1,000 <sup>to</sup>	\$625 <sup>to</sup>
\$650	\$1,500	\$875

Total Available Statewide \$6.3B

Estimated Regional Spending Ranges

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**T-WORKS Focuses on Economic Growth**

- Improved, more robust selection processes
- Re-tooled programs
- Expanded Partnerships

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Appropriations Committee

Date January 20, 2011

Attachment 1-7

### Economic impacts: 5 Case Studies

Project	Project Cost	Jobs Added	Economic Value Added
Parsons - US-400 Bypass	\$27 M	1,400	\$56 M
Wichita - K-96 Bypass	\$103 M	24,000	\$1.6 B
WY County-110 <sup>th</sup> St Interchange	\$50 M	5,700	\$186 M
Overland Park - Nall Ave Interchange	\$48 M	17,500	\$4.1 B
Hays - Commerce Pkwy Interchange	\$3.5 M	2,200	\$111 M
<b>TOTAL</b>	<b>\$231 M</b>	<b>50,800</b>	<b>\$6.1 B</b>

### Economic Development Program Re-tooled

- \$10 M Annually
- Highway and multi-modal projects
- Project selection ongoing
- Work with Private and Public entities

### T-EDL

#### Transportation – Economic Development Loans


- Bridge the gap between project construction and revenue from development

Appropriations Committee

Date January 20, 2011

Attachment 1-8

2011



Select and Announce Projects

Based on engineering, local input, economic analysis,  
previous work and cost.

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2011

**Budget Update**



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**\$200 M Transfer Possible**

- Low bid prices
- Low inflation



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Appropriations Committee  
 Date January 20, 2011  
 Attachment 1-9



## \$200 M Transfer

- Lost opportunity for more work
- Must accelerate \$50 M bonding
- Inflation uncertainty




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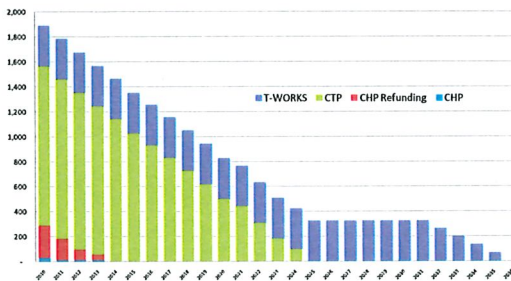
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## Bonding Update




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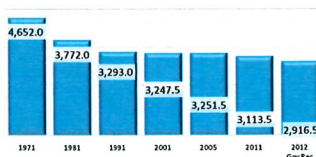
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## Prior Budget Reductions

- KDOT eliminated 138 FTE positions after the CTP
- The Governor's recommendation is to eliminate an additional 197 FTE.

KDOT FTE History




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Appropriations Committee

Date January 20, 2011

Attachment 1-10

Questions?



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Appropriations Committee

Date January 20, 2011

Attachment 1-11

# TWORKS Project Selection Process

2006-2008

2008-2009

2010

2010

2011



## 1. Generate List of Possible Projects

- 40+ meetings held across the state as part of Long Range Planning Process
- 420+ Kansans participate in discussions
- 400 candidate projects emerge
- 5 working groups and 2 committees are assembled. Recommend transportation investments be linked to state's economic priorities

400 Projects



## 2. Prioritize & Score Projects

- Statewide T-LINK taskforce created to craft new approach to transportation.
- 14 meetings held across Kansas. 850+ Kansans participate in discussions to help prioritize candidate list. 200 projects emerge as priorities.
- T-LINK recommends new selection process: engineering (50%), economic impact analysis (25%), local consult (25%).
- 200 projects are scored using new process. Scores presented at 8 meetings across Kansas. 800+ Kansans had the opportunity to provide feedback on the scores. Some communities gave additional information to be used in factoring the economic scores. That feedback was considered and some scores were adjusted. Overall, communities were very supportive of the new selection process.

200 Projects

## Expansion & Modernization Spending

\$75 to \$125	\$100 to \$200	\$500 to \$800
\$100 to \$150	\$300 to \$600	\$125 to \$225

Total Available Statewide \$1.7B

## TOTAL Highway Spending

\$675 to \$925	\$700 to \$1,000	\$1,700 to \$2,300
\$450 to \$650	\$1,000 to \$1,500	\$625 to \$875

Total Available Statewide \$6.3B

## 3. Estimate Regional Spending Ranges

- After passage of T-WORKS, KDOT looks at expansion and modernization funds and estimates the spending ranges for each region based on several factors.
- 4 workshops are held across the state to inform communities of the spending ranges and encourage them to work together to identify the best combination of projects for their area in preparation for local consult.
- Given the limited funds, the project list is narrowed to the top scoring 100 projects for Kansans to consider. 400+ Kansans participate in these discussions.

100 Projects



## 4. Discuss How to Maximize Regional Benefits

- 6 local consult meetings are held across the state to discuss which of the 100 projects provide the most regional benefit for the funds available in the region.
- 600+ Kansans rank the projects in their regions
- Recognizing that funds were more constrained than under previous transportation programs, communities were presented with alternative scopes (e.g. phases of interchanges versus full interchanges or passing lanes instead of 4-lanes).
- When required to work within their spending range, most communities and regions demonstrated a willingness to compromise on scope in order to build more projects in the region.

100 Projects



## 5. Select Projects

- Select and announce projects

### BY THE NUMBERS

- 4 year planning effort
- 95+ meetings held
- 2,000+ Kansans participated
- 33 projects make draft list totaling \$1.723 billion
- 210 miles will be completed under the draft list
- \$10 billion economic impact will be generated by draft list

### A CAUTIONARY NOTE

All expansion projects are dependent on the 1 cent sales tax staying in effect and 4/10 of it being directed to KDOT in 2013.

Appropriations Committee

Date January 20, 2011

Attachment 1-12

**Testimony before the  
House Appropriations Committee  
Karin Brownlee  
Secretary of Labor  
20 January 2011**

Chairman Rhoades 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.

The agency has many responsibilities:

- Unemployment Insurance Program
  - Processing claims for benefits and collecting unemployment taxes to fund the system
- Workers Compensation
- Industrial Safety and Health
  - Offers free workplace safety consultations for private employers
  - Oversees job safety involving public employees
- Employment Standards
  - Enforces the employment laws for Kansas including Child Labor laws and the Wage Payment Act
- Labor Market Information Services
  - Compiles data on the workforce and industries in Kansas
- Oversees Public Acts
  - Public Employers and Employees Relations Act
  - Public Negotiations Act
- Our customers are the 73,000 employers and the over 1.4 million workers in Kansas

**Unemployment Insurance Program**

The Unemployment Insurance (UI) Program has worked with thousands of Kansans and Kansas families to ensure they have unemployment benefits.

The director of our Labor Market Information Services division, Inayat Noormohmad, has put together some charts that will outline how the recession has impacted the unemployment insurance program, which he will be sharing with you momentarily.

In 2010, through State and Federal programs, we paid out nearly \$1.2 billion in unemployment benefits to out-of-work UI claimants. These payments are critical for laid off workers and the cash infusion is considered helpful to our economy.

I have included in the appendix a chart that outlines the progression of UI Benefit programs. Through the American Recovery and Reinvestment Act (ARRA) and other State and Federal programs, the maximum number of weeks of benefits available to UI claimants has reached 86:

- Regular Program – 26 weeks

Appropriations Committee

Date January 20, 2011

Attachment 2



- Emergency Unemployment Compensation (EUC)
  - Tier I – 20 weeks
  - Tier II – 14 weeks
  - Tier III – 13 weeks
- State Extended Benefits (EB) – 13 weeks\*
  - \*State Extended Benefits will trigger off and cease to be available when the average seasonally adjusted total unemployment rate for the most recent three month period falls below 6.5%.

While we've been responding to this unprecedented workload, it has created some significant challenges in the Contact Center. Our Customer Service is not functioning at the level that I would like it to be. However, each of our staff members is responding to this workload increase, as we are taking significant measures and implementing new strategies to address these challenges. For example, beginning this week, we have:

- Revised our [www.GetKansasBenefits.com](http://www.GetKansasBenefits.com) website for increased ease of use
- Modified our policies regarding UI claimant inquiries to reduce the number of individuals waiting on hold with the Contact Center
- Created an online form on which claimants can submit their inquiries
- Set the goal of responding to all claimant inquiries within 72 hours

Though these changes became effective only yesterday, they appear to be having a positive effect on agency efficiency and the experience of our claimants. For example, on Monday, Jan. 10<sup>th</sup>, more than 24,000 calls were forced disconnected from the Contact Center. On Tuesday, Jan 18<sup>th</sup>, just 1,061 calls were forced disconnected.

### **Unemployment Insurance Modernization (UIM) project**

The UIM project originally began in 2004 in the aftermath of the challenges the agency encountered in implementing the federal Temporary Extended Unemployment Compensation (TEUC) program that Congress created during the recession of 2002-03. Despite the fact that six years have passed since its inception, the ultimate goals of the project have not yet been reached. Additionally, expenditures and obligations for the UIM project combined exceed \$50 million. Going forward, we will be doing a detailed cost/benefit analysis of the UIM project and determining the added value that each proposed change related to UIM will bring to the State of Kansas.

Let me share some of the accomplishments of the UIM 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.

Appropriations Committee

Date January 20, 2011

Attachment 2-2

- *Federal New Hires Fraud Cross-Match*—In 2008, we implemented and began cross-matching federal new hires data to the state new hires fraud cross-match program. This increased the possibility of detecting fraud.
- *Automatic Registration*—Anyone who applies online or by phone for unemployment benefits are automatically registered with KANSASWORKS.com. We implemented this program in July 2009. This connects unemployed claimants with the Kansas Workforce Centers and their services, allowing us to reach more individuals, retrain them, and get them back into the workforce sooner.
- *Customer service projects*—In November 2009, we recognized the importance of our customers' feedback and 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.

With these approaches, specific parts of the project have been implemented to assist the workload:

- *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. We have also begun a marketing campaign to encourage claimants to apply online rather than by phone.
- *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.

### **Unemployment Insurance Trust Fund**

Kathie Sparks, the newly appointed Deputy Secretary of the Kansas Department of Labor testified before you on January 13<sup>th</sup> regarding the unemployment insurance Trust Fund, the process of receiving Title XII loans from the Federal Unemployment Account, the affect that this recession has had on the employer tax rates, and the impact of House Bill 2676. As such, I'll not belabor you with information which has previously been provided, but simply highlight some important considerations for the coming year.

As you'll recall, the Legislature enacted 2010 HB 2676 which amended the Employment Security Law regarding contribution rates, penalties, and interest. The law provides that for calendar year 2010 and 2011, the charge for contributing employers in rate groups 1 through 32 be that of the 2010 original tax rate computation table which lowered the amount of funding coming into the trust fund. Additionally, contributing employers in rate groups 33 through 51 are capped at a 5.4 percent contribution rate, which is the statutory maximum rate allowed for positive balance employers. In addition, employers 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.

Appropriations Committee

Date January 20, 2011

Attachment 2-3

However, this interest-free provision may have negatively impacted some Kansas employers, as contributions paid after July 31<sup>st</sup> were not factored into the calculation of their account balance, and consequently, the determination of their CY 2011 tax rate. As such, I recommend that this provision which is currently in effect through CY 2011 be reconsidered by the Legislature.

### **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 to compile statistics on the labor market in Kansas—estimates on the labor force, employment levels, unemployment rates, wages paid, and projections of future occupation trends. Again, the LMIS Director will be highlighting a few of the services LMIS offers. I have also enclosed brochures concerning several of these reports.

### **Workers Compensation**

The Workers Compensation 36<sup>th</sup> Annual Statistical Report provides the following information:

**Table 2-1**  
**Kansas Total Occupational Injuries & Illnesses by Severity**  
**FY 1995 – FY 2010**

Fiscal Year	No Time Lost Injuries & Illnesses		Time Lost Injuries & Illnesses		Fatal Injuries		Total Injuries & Illnesses
	Total No Time Lost	% of Total Injuries & Illnesses	Total Time Lost	% of Total Injuries & Illnesses	Total Fatal	% of Total Injuries & Illnesses	
FY 1995	52,473	55.49%	42,030	44.44%	67	0.07%	94,570
FY 1996	68,674	71.79%	26,929	28.15%	60	0.06%	95,663
FY 1997	73,415	75.14%	24,220	24.79%	64	0.07%	97,699
FY 1998	63,071	63.77%	35,767	36.16%	70	0.07%	98,908
FY 1999	68,995	72.07%	26,674	27.86%	61	0.06%	95,730
FY 2000	71,327	79.21%	18,653	20.71%	69	0.08%	90,049
FY 2001	64,533	75.97%	20,368	23.98%	44	0.05%	84,945
FY 2002	52,549	72.16%	20,223	27.77%	53	0.07%	72,825
FY 2003	55,101	80.87%	12,994	19.07%	42	0.06%	68,137
FY 2004	48,298	75.03%	16,032	24.90%	44	0.07%	64,374
FY 2005	36,335	56.11%	28,369	43.81%	57	0.09%	64,761
FY 2006	37,619	56.60%	28,800	43.33%	50	0.08%	66,469
FY 2007	37,444	54.10%	31,718	45.83%	49	0.07%	69,211
FY 2008	38,778	55.19%	31,442	44.75%	43	0.06%	70,263
FY 2009	32,076	50.81%	31,020	49.14%	34	0.05%	63,130
FY 2010	27,401	47.09%	30,741	52.83%	46	0.05%	58,188

Source: Kansas Division of Workers Compensation

### **Workplace safety and health programs**

KDOL is committed to making workplace safety a top priority for the State of Kansas and offers consultative services to employers in an effort to help them prevent injuries and illnesses in the workplace.

Appropriations Committee

Date January 20, 2011

Attachment 2-4

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 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. Some of our 2010 KSafe Award recipients include:
  - ADM Grain (Trousdale), Belpre
  - Bradbury-Cust. Rollforming, Moundridge
  - Farmway CO-OP, Inc., Clay Center
  - Farmway CO-OP, Inc., Lincoln
  - Farmway CO-OP, Inc., Glen Elder
  - Farmway CO-OP, Inc., Cawker City
  - Farmway CO-OP, Inc., Hunter
  - Farmway CO-OP, Inc., Vesper
  - Farmway CO-OP, Inc., Leonardville
  - Farmway CO-OP, Inc., Denmark
  - Farmway CO-OP, Inc., Miltonvale
  - Farmway CO-OP, Inc., Tipton
  - Farmway CO-OP, Inc., Westfall
  - Good Samaritan Society, Hutchinson
  - Good Samaritan Society, Liberal
  - Southern Pioneer Electric, Liberal
  - Southern Pioneer Electric, Medicine Lodge
  - Tension Envelope, Marysville
  - The Bradbury Company, Moundridge
  - The Scoular Company, Goodland
  - Underground Vaults, Hutchinson
- **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. Some of our 2010 KSafe Award recipients include:
  - **100,000 work hours accident free**
    - Bettis Asphalt and Construction, Topeka
    - Camoplast Rockland, Ltd, Emporia
    - Industrial Insulation Services, Inc., El Dorado
    - Jostens, Topeka
    - Team Stanley, Ft. Riley

Appropriations Committee

Date January 20, 2011

Attachment 2-5



- **500,000 work hours accident free**  
 Collins Bus Company, Hutchinson  
 Creekstone Farms, Arkansas City  
 Exline Inc., Salina  
 Flame Engineering, LaCrosse  
 Kansas Ethanol LLC, Lyons  
 Natoma Corp., Norton  
 Schwan's Logistics, LLC, Salina  
 Skyline Corp, Arkansas City  
 Solomon Corp., Solomon
- **1,000,000 work hours accident free**  
 Cargill-Hutchinson Salt, Hutchinson

If you have any questions regarding the testimony provided, or about operations within the Kansas Department of Labor, please feel free to contact me by email at [Karin.Brownlee@dol.ks.gov](mailto:Karin.Brownlee@dol.ks.gov) or by phone at 785-296-7474.

Furthermore, if you have constituent inquiries which require assistance from KDOL, please contact Jenna Keesling by email at [Jenna.Keesling@dol.ks.gov](mailto:Jenna.Keesling@dol.ks.gov) or by phone at 785-296-7474.

# What unemployment benefits are available?

Up to 86 weeks of unemployment benefits available



Appropriations Committee

Date January 20, 2011  
Attachment 2-7

26 weeks	20 weeks	14 weeks	13 weeks	13 weeks
Regular Unemployment Benefits	Emergency Unemployment Compensation 2008 (EUC 08) Benefits	Tier II EUC Benefits	Tier III EUC Benefits	State Extended Benefits (EB)
<ul style="list-style-type: none"> <li>★ Available for up to 26 weeks (length depends on employment history and earnings)</li> <li>★ To receive unemployment benefits, you must be:                             <ul style="list-style-type: none"> <li>• Able and available to work</li> <li>• Actively seeking employment</li> <li>• Unemployed due to no fault of your own</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>★ Program began July 6, 2008</li> <li>★ Up to 20 weeks of extended unemployment benefits are available under the Emergency Unemployment Compensation (EUC08) Act.</li> <li>★ Workers potentially eligible for extended benefits:                             <ul style="list-style-type: none"> <li>• Have filed a valid UI claim and exhausted all regular UI benefits</li> <li>• Have no rights to regular compensation</li> <li>• Have had 20 weeks of full-time insured employment or the equivalent in insured wages</li> <li>• Are fully or partially unemployed on or after July 6, 2008 and meet all eligibility criteria such as being ready, willing and able to work</li> </ul> </li> <li>★ If you were moved to the EB program while waiting for Congress to extend the deadline to apply for EUC, you must exhaust those EB benefits before moving back to the EUC program.</li> </ul>	<ul style="list-style-type: none"> <li>★ Effective June 7, 2009</li> <li>★ Originally provided up to 13 weeks of additional benefits.</li> <li>★ Legislation passed on Nov. 6, 2009, extended the total weeks available from 13 to 14. One-week extension effective week ending Nov. 14, 2009.</li> <li>★ Nov. 6 legislation removed a requirement that the state's average seasonally adjusted unemployment rate be 6.0 percent or higher for three consecutive months in order to trigger on to the program.</li> <li>★ If you received EUC Tier I benefits, you are likely to be eligible for Tier II benefits.                             <ul style="list-style-type: none"> <li>• If eligible, benefits will roll over from Tier I to Tier II and claimants will not need to fill out an additional application</li> </ul> </li> <li>★ If you were moved to the EB program while waiting for Congress to extend the deadline to apply for EUC, you must exhaust those EB benefits before moving back to the EUC program.</li> </ul>	<ul style="list-style-type: none"> <li>★ Effective Nov. 8, 2009</li> <li>★ Up to an additional 13 weeks of benefits are available under Tier III EUC.</li> <li>★ To be eligible for Tier III benefits, individuals must meet the following criteria:                             <ul style="list-style-type: none"> <li>• Exhausted regular state unemployment insurance benefits and Tier I and II EUC benefits</li> <li>• Not eligible for a new state unemployment insurance claim in any state or in Canada</li> </ul> </li> <li>★ If you were moved to the EB program while waiting for Congress to extend the deadline to apply for EUC, you must exhaust those EB benefits before moving back to the EUC program.</li> </ul>	<ul style="list-style-type: none"> <li>★ The first week a Kansas claimant was eligible for state extended benefits was the week ending August 8, 2009.</li> <li>★ Up to 13 weeks of additional benefits are available through the State Extended Benefits program.</li> <li>★ The program kicks in when the state's seasonally adjusted unemployment rate is 6.5% or more for three consecutive months. The program remains in effect until the state's seasonally adjusted unemployment rate drops below 6.5%.</li> <li>★ To be eligible you must meet the following criteria:                             <ul style="list-style-type: none"> <li>• Exhausted regular state unemployment insurance benefits, EUC Tier I, II and III benefits</li> <li>• Not eligible for a new state unemployment insurance claim in any state or in Canada</li> </ul> </li> <li>★ If you haven't exhausted all EUC benefits and were moved to the EB program while waiting for Congress to extend the deadline to apply for EUC, you must exhaust those EB benefits before moving back to the EUC program.</li> </ul>
Funded 100% with State UI Trust Fund	Funded 100% with Federal Funds	Funded 100% with Federal Funds	Funded 100% with Federal Funds	Funded 100% with Federal Funds through the week ending Jan. 7, 2012,

# KANSAS LEGISLATIVE RESEARCH DEPARTMENT

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January 13, 2011

To: Senate Committee on Commerce

From: Kathie Sparks, Principal Analyst

Re: Unemployment Trust Fund

The following memorandum will explain the experience over the last two years of the Unemployment Trust Fund, including the effect of the down turn in the economy, projections estimated and actual, and the need for legislation.

## History

The federal-state unemployment compensation (UC) program was created by the Social Security Act (SSA) of 1935. Unemployment compensation is an insurance program and a federal-state partnership based upon federal law, but administered by state employees under state law.

Currently, almost all wage and salary workers now are covered by the federal-state program. Railroad workers are covered by a separate federal program. Ex-service members with recent service in the Armed Forces and civilian federal employees are covered by a federal program, with the states paying benefits from federal funds and acting as agents of the federal government.

The Federal Unemployment Tax Act (FUTA) is funded by a federal tax levied on covered employers at a current rate of 6.2 percent on wages up to \$7,000 a year paid to an employee. However, the law provides a credit against federal tax liability of up to 5.4 percent to employers who pay state taxes timely under a federally approved state Unemployment Compensation Program. The majority of Kansas employers do receive the maximum credit, therefore, paying a FUTA tax rate of 0.8 percent on the first \$7,000 of wages or salary paid to each employee. This equates to a maximum of \$56 per covered employee, per year.

The State Unemployment Tax Act (SUTA) is based on the first \$8,000 of wages or salaries paid by employers for each employee. As an aside, the \$8,000 amount has been in place since 1983. According to the State statutes, there are 51 positive rate classes of employers. The rate calculation is recomputed each calendar year based on the prior year's experience and total covered wages with a maximum rate of 5.4 percent applied.

When an employer's total contributions are less than the benefits paid to former employees, the employer is classified as a negative balance employer. In addition, the statutes provide for nine negative rate classes of employers who are required to pay an additional

Appropriations Committee

Date January 20, 2011

Attachment 2-8

penalty of a maximum of 2.0 percent on top of 5.4 percent or a maximum of 7.4 percent against the first \$8,000 of wages or salaries paid by employers.

A third class of employers also exist in Kansas, which are ineligible employers. Ineligible employers are new employers who do not have 24 consecutive months of payroll experience, and therefore do not have an experience rating which leads to one of the 51 positive rate classes or one of the 9 negative rate classes. Once the 24 consecutive months has been achieved, the following year, they will qualify like any other employer. Currently, all new industries or businesses, except the construction industry, are charged 4 percent. The new construction businesses are charged 6 percent because of the history of the construction industry.

### **Tax Years 2009 and 2010**

From January 1, 2009 to December 31, 2009, Kansas paid out approximately \$766.8 million in regular program benefits. In addition, 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 federal Recovery Act provision, state extended benefits are funded wholly through federal funds until January, 2012. For the time period January 1, 2010 to September 30, 2010, Kansas paid out approximately \$429.8 million.

As stated earlier, the Unemployment Insurance Trust Fund is funded by employers' contributions through the unemployment insurance tax and the interest earned from the 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 multiplier, employers can be granted a reduction in their contribution amount for the coming calendar year. Kansas' average high cost multiplier, prior to the recent recession, was 1.2, which means the balance of the Trust Fund was sufficient 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 were in place during 2006, 2007, and 2008, saving employer's more than \$286 million during these years.

The Trust Fund balance, as of the week ending January 9, 2010, was \$65.2 million. At the beginning of 2009, the Trust Fund balance was \$566.5 million. The Department of Labor, at that time, January of 2010, believed it would exhaust the fund sometime in February. This did come to pass and Kansas did start borrowing funds from the U.S. Treasury in February of 2010. Kansas and all states draw money from the Treasury on a daily basis, only the amount of money (to the nearest \$1,000) needed to satisfy benefit payments for that day.

As of October 8, 2010, 36 states have borrowed over \$40.0 billion in funding from the U.S. Treasury and as of the first week of January, 2011, Kansas has received \$88.2 million in Title XII advances from the Federal Unemployment Account (FUA). The amount of borrowing has been far less than what was anticipated back in January 2010.

### **Interest Payments**

The federal government normally charges interest on the loan amounts; however, for calendar year 2010, Congress waived interest for the year. The extension of the federal Unemployment Benefits does **not** waive the interest payments. In addition, the state's

Appropriations Committee

Date January 20, 2011

Attachment 2-9



Unemployment Trust Fund contributions collected cannot be used to pay interest on the advances. Interest payments must be paid from an alternative source according to federal law.

Interest began being assessed on January 1, 2011. The Department of Labor will receive a "bill" from the Treasury by September 15, 2011. Payment for the entire amount of interest will be due by September 30, 2011. **Kansas currently has no mechanism in place to make this payment.** During January of 2010 the Department made projections based on the estimated borrowing and revised these projects in October. The projections are as follows:

January 2010 Projected Interest Payments	
2011	\$42,006,035
2012	\$55,670,701
2013	\$55,194,690
2014	\$48,153,936
2015	\$38,849,931
2016	\$23,823,034
2017	\$12,822,463

History of U.S. Gov. Interest Rate	
Year	Interest Rate ( percent)
2006	4.63
2007	4.66
2008	4.81
2009	4.64
Estimate 2010	4.33

October 2010 Projected Interest Payments		
Year	Projected Interest Rate	Projected Interest Payment
2011	3.60 percent	\$6.2 Million
2012	3.62 percent	\$5.7 Million
2013	3.91 percent	\$1.7 Million

Appropriations Committee

Date January 20, 2011

Attachment 2-10

Potential consequences of interest not paid by the required deadline are as follows:

- Kansas employers may lose offset credit against FUTA of 5.4 percent, therefore paying up to 6.2 percent against first \$7,000 of wages paid per employee (currently paying 0.8 percent);
- Kansas may lose future borrowing privileges; and
- Kansas also would lose all grants for costs of administration until interest due has been paid.

### ***Repayment of Title XII Loans***

In order to assure that a state will repay any loans it secured from the Federal Unemployment Account (FUA), federal law provides that when a state has an outstanding loan balance on January 1 for two consecutive years, the full amount of the loan must be repaid before November 10 of the second year, or the federal tax on employers in the state will be increased for that year and further increased for each subsequent year that the loan has not been repaid.

Specifically, the 5.4 percent credit is reduced in successive increments of a minimum of 0.3 percent for each year in which a loan or loans remain unpaid (reducing the overall credit from 5.4 to 5.1, to 4.8 to 4.5 percent, and so forth). Additional offset credit reductions may apply to a state beginning with the third and fifth taxable years if a loan balance is still outstanding and certain criteria are not met.

As of November 10, 2010, the states of Indiana, Michigan and South Carolina had outstanding UI federal loans and as a result, employers will see an increase in their FUTA taxes. Employers in these states will see the following increase to their FUTA tax:

- Michigan: Second year in default, employers will pay FUTA of 1.4 percent (an increase of 0.6 percent);
- Indiana: First year in default, employers will pay FUTA of 1.1 percent (an increase of 0.3 percent); and
- South Carolina: First year in default, employers will pay FUTA of 1.1 percent (an increase of 0.3 percent).

Note: In Kansas, currently employers pay 0.8 percent.

Repayment of the principal on the loans can be paid from various funding sources such as reduced Federal Unemployment Tax Account (FUTA) credits; Unemployment Trust Fund (UTF) contributions, state general funds, surcharges, or additional solvency taxes.

Appropriations Committee

Date January 20, 2011

Attachment 2-511

As stated previously, the FUTA tax credit reduction begins after the second consecutive January of borrowing if the principal of the loan has not been repaid. Additional funds received as a result of the reduction are credited against the principal loan balance.

## 2010 Enactment of HB 2676

The Legislature enacted 2010 HB 2676 which amended the Employment Security Law regarding contribution rates, penalties, and interest. The bill provided that, for calendar years 2010 and 2011, the charge for contributing employers in rate groups 1 through 32 will be that of the 2010 original tax rate computation table which lowered the amount of funding coming into the trust fund. Contributing employers in rate groups 33 through 51 are capped at a 5.4 percent contribution rate, which is the statutory maximum rate allowed for positive balance employers. In addition, employers 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.

## Conclusions

The following are the conclusions that could be reached from this memorandum about the future of the Kansas Unemployment Insurance Program:

- Kansas needs a statute change for repaying the interest due September 30, 2011. Any change in statute with regard to employers' rates need to occur by the first week of March, so the Department will have the time needed to implement the new schedules.
- The Legislature may wish to discuss options for the repayment of the principal on the loans.

If the Legislature chooses to allow the reduction in FUTA tax credits, please be advised that approximately 0.1 percent equals \$7.7 million (the minimum FUTA reduction is 0.3 percent or approximately \$23.0 million).

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Appropriations Committee

Date January 20, 2011

Attachment 2-12