

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Susan Wagle at 8:15 a.m. on January 26, 2011, in Room 548-S of the Capitol.

All members were present.

Committee staff present:

Mr. Reed Holwegner, Office of the Revisor of Statutes
Ms. Dorothy Noblitt, Office of the Revisor of Statutes
Mr. Ken Wilke, Kansas Legislative Research Department
Ms. Margaret Cianciarulo, Committee Assistant

Conferees appearing before the Committee:

Mrs. Karin Brownlee, Acting Secretary, Department of Labor
Mr. Inayat Noormohmad, Director, LMIS & UI Divisions, Kansas Department of Labor

Others attending:

See attached list.

Handouts

Upon calling the meeting to order, Chairperson Wagle announced the Committee would be having confirmation hearings at tomorrow's meeting for Mrs. Karin Brownlee as Secretary of the Department of Labor and Mr. Pat George as Secretary of the Department of Commerce. Confirmation packets for these new appointments were before them to review.

Unemployment Workshop

The next order of business was a workshop on unemployment. Chairperson Wagle stated her goal is to have a hearing on unemployment next Thursday, February 3, to submit a bill while continuing to work on the language, in order to let employers know where they stand. She then recognized Mrs. Karin Brownlee, Acting Secretary, Department of Labor who offered the following update:

1.) Regarding the Call Center, they had implemented a new process that began on January 18, 2011 and as of Friday, January 21, the DOL had zero disconnects compared to the 24K they had received on her first day at the department.

2.) They had discussed having to implement a new surcharge on employers to pay the interest, but thanks to Mr. Inayat Noormohmad, the surcharge that is currently on the negative-pay employers, can be used by moving it to a separate fund and utilizing it to pay the interest. Mr. Noormohmad is communicating with the Federal government to make sure it is an acceptable solution, so the DOL does not have to implement another fee on all employers just to pay the interest alone. No written testimony was offered.

The Chair thanked Mrs. Brownlee and then recognized Mr. Inayat Noormohmad, Director, Labor Market Information Services (LMIS) & Unemployment Insurance (UI), Kansas Department of Labor, who offered a packet entitled, "Introduction to the Kansas Unemployment Insurance Program: A Guide to Understanding the UI Trust Fund and Tax Contributions," and giving a brief overview regarding the:

1.) Unemployment Insurance Trust Fund - stating the money for the fund comes from employer contributions and the interest the fund earns, which can only be used to pay benefits. As of January 25, 2011, the trust fund balance is zero and the outstanding loan amount, Title X11 is \$100.8M.

2.) Employer Tax Rates - stating there are four major components of that tax rate that each individual gets including: the length of time in business and industry. There are the ineligible employers who do not have more than 24 consecutive months of chargeability with the DOL, experiences using the UI system, average annual payroll, overall trust fund balance. The average tax rate for 2011 on the taxable wage base of the first \$8K of the salary, is 4.79% or \$383.20 per employee annually. However, he said when you factor in **HB2676**, the relief that was given the employers the effective tax rate is 3.93% or \$314.00 per employee.

CONTINUATION SHEET

The minutes of the Senate Commerce Committee at 8:15 a.m. on January 26, 2011, in Room 548-S of the Capitol.

3.) Calculating the UI Tax Rates - stating everything that is used in the tax rate is based on Kansas statute KS 44-710a explaining:

A.) They first determine the Planned Yield based on what they call Schedule III, based on what their reserve fund ratio is. The DOL takes the balance as of July 31 and divides that by the total payroll of contributing employers in the previous fiscal year. For 2011, the reserve fund ratio was 0.076%, which helps them determine what the tax rate is going to be on total wages.

B.) Referring to the chart on page 5, he said by finding the 0.076% from Column A, it will give the Planned Yield or 1.1% of total wages of contributing employers, which will be the yield that is collected. The Planned Yield for 2011 was \$406.9M based on the tax rate on taxable wages and the total taxable wages we had in the previous state fiscal year.

Chairperson Wagle asked if it went down because wages went down, and weren't last years wages higher? (Yes, last year was the first year in Kansas history that total wages went down as well as taxable wages.) He went on to say the Planned Yield for 2010 was \$406.9M but **HB2676** rates reduced it to \$363.5M. That was some relief they were able to provide.

The Chair asked is this is only for this year, next year we do not have this reduction? (Correct, **HB2676** was only in effect for 2010 and 2011.)

4.) Types of Employers - the rate mechanism includes:

A.) Ineligible Employers, as explained earlier, do not have 24 consecutive months of chargeability and have set rates. The construction industry has a rate of 6%, all other industries are at 4%.

B.) Negative Balance Employers – have more benefits charged against their account than they have paid in and have the maximum allowable 5.4% rate, plus a surcharge ranging from 0.2% to 2.0% with the effective rates ranging from 5.6 to 7.4%.

C.) Positive Balance Employers –have paid in more than they have benefits charged against their account and are rated in 51 rate groups depending on their experience using the UI system. The maximum tax rate for all 51 groups is 5.4%.

The Chair asked, to coordinate things with what we did last year, in the bill that we finally passed last year, was there an increase on the rates paid by a surcharge put on negative employers last year? (No.)

5.) Employer Tax Amount Determination - the amount of money the DOL will be collecting from the three different groups of employers starting with what they need to collect, the overall year according to Schedule III, or \$420.0M. They deduct \$14M they estimate will be collected from ineligible employers, then deduct \$75.7M they anticipate to collect from the negative balance employers, and the remaining balance of \$330M is what they will collect from the positive balance employers.

6.) Tax Relief – 2010 **HB2676** - only applied to positive balance employers. They did not go to the rate compression technique they normally do which almost eliminated the experience rating because quite a few groups were accessed 5.4%. They also allowed the employers 90-days, in addition to what the statute dictates, to pay the contributions without being charged interest for the first three quarters of each of the two years.

7.) Positive Balance Employers – by calculating the individual employers reserve ratio, which is the account balance divided by the annual average payroll for the past three years, determines how an employer is placed in one of the 51 rate groups. To equally spread wages across each of the rate groups, they start with rate group one, selecting those employers who have the best reserve ratio, and put 1.96% of total taxable wages into it, then they go to rate group two and so on until they get to rate group 51 where they have exhausted all of their positive balance employers.

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The minutes of the Senate Commerce Committee at 8:15 a.m. on January 26, 2011, in Room 548-S of the Capitol.

8.) Comparison Charts showing 2011 Calculated Tax Rates and 2011 **HB2676** Tax Rates - once employers are arranged in these rate groups, if they were to calculate the tax rates with the compressions, rate groups 13 through 51 would have the tax rate of 5.4%, essentially not allowing for any experience rating since they all paying the same flat rate. With **HB2676**, the 5.4% does not begin until rate group 33.

The Chair recognized Senator Masterson who asked for clarification on the way the formula works, offering an example of two companies both having the same amount of employees: Company A employees are all making \$10K so contributing about the same rate & Company B employees are all making \$100K, so Company B would have a much better reserve ratio correct? (The effective tax rates would be lower in Company B but the reserve denominator in the reserve ratio is the average annual payroll. It is the risk that you are exposing the UI system to that factors into the determination of the reserve ratio.) So if Company B lays off, those employees get higher benefits? (Yes, but it is being charged against their account which pushes down their reserve ratio.)

The Chair asked if the DOL could provide an analysis on the following: list all of the positive balance employers in all groups, provide the total amount they have drawn out of the fund, how much they have paid into the fund, and possibly the total amount they are projected to pay into the fund this next year and provide the same calculations for the negative employers who have had a surcharge of .2 -2.0%, so we could compare the two groups? (Yes, and could tell her by sheer definition of who they are, the amount of money paid in by the positive balance employers by definition would be higher than the amount of money used and vice versa for negative balance employers.)

She asked, when did we implement the surcharge on negative balance employers? (To their 25 years on the job, they have always had this.) Regarding using this surcharge to pay back the interest to the federal governmental, did it turn out to be enough? (More than enough, the DOL is collecting about \$18M from the surcharge and they are estimating somewhere between \$6M-\$8M for the interest payment.)

The Chair recognized Senator Lynn who asked if they were using the surcharge to pay down the interest payment, how does that effect the overall fund and what about the principal? (It does have a double impact including: the interest payment money cannot be used in the calculation of the reserve ratio of those employers and it reduces the trust fund balance because again you cannot count this money. And again, if the trust fund balance is lower then it impacts the calculation of the reserve ratio of Schedule III yield that you would require. However, because of the situation we are in we cannot get worse than 1,1%.)

9.) Yearly Schedule - notices are sent out in mid-December, the employers have the right to appeal within 15 days and file four Quarterly Wage Reports paying tax contributions at the end of each quarter.

HB2676 provides a 90-day interest free grace period for contribution payments for the first three quarter of 2010 and 2011, but not the fourth quarter because of the federal requirements.

10.) Trust Fund Borrowing – the DOL draws funds on a daily basis per need, the federal government will only give us the amount needed to pay benefits from the Federal Unemployment Account. The current outstanding loan balance is \$100.8M.

11.) Lastly, Interest on Trust Fund Loans – through ARRA, Trust Fund loans have been interest free through 2010, but began accruing daily on balances effective January 1, 2011. The loans are payable no later than September 30. (With interest rates changing each calendar year, he found it interesting how it is calculated, it is the same interest you would earn if you had a trust fund balance.) A copy of his handout is ([Attachment 1](#)) attached and incorporated into the Minutes as referenced.

The Chair thanked Mr. Noormahmad and asked for questions or comments from the Committee which came from Senators Longbine and Holland including: do you have an idea the percentage or number of employers that have gone from positive to negative balance over the last 24 or 36-months? (From 2009 to 2010, the taxes collected went up to 4.9% and in 2009 there were 4,700 negative balance employers, in 2010 it went to 6,370, and in 2011, 7,705.) Once that employer has gone to the negative balance position, on an annual basis, how many of those, on a percentage basis, are coming out or are they just lost in this spiral? (Does not have that information available right now, but will get it for him. In terms of the

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industry classification, the majority are construction and manufacturing related simply because of the nature of the recession where there were a lot of layoffs in this classification.) Would it be a fair assessment to say that the negative balance employers are not pulling their fare share? (The Chair mentioned that she has asked for the figures of what the positives are paying in to hold up the negatives.)

For those other states who have gone through their structural shifts in their economy, the types of jobs they are seeing grow are changing, have you seen anything to indicate if they are trying to manage these employers on a long term basis? (Have not seen any studies.)

As there were no further questions for Mr. Noormahmad, Chairperson Wagle recognized Ms. Kathie Sparks, Deputy Secretary, Kansas Department of Labor, who offered a packet entitled "Introduction to the Unemployment Insurance Program: A Guide to Understanding UI Benefits" and explaining the:

1.) FUTA Credit Reduction – stating a state can retain a loan balance on January 1 for two consecutive years before repayment must begin and since we did not start borrowing until February of last year, we will not be in loan repayment until January, 2012. November 9 is also a date to remember because if the loan has been paid off entirely, interest is not charged for that year the following year. If the loan has not been paid off, contributory employees may be subject to reduction of their FUTA credit. The Federal rate is 6.2% and we receive a credit of 5.4% so all employers are paying .8% which they reduce by 0.3% each year the balance remains unpaid and the base is now \$7K.

2.) Schedule of FUTA Offset Credit Reductions – which offers a progression of paying off the loan until it is paid off. Currently employers are paying \$56 per employee FUTA credits, the .3% would be \$77, then \$98, and it increases by \$21 per employee per year until that money is paid off. For years 3 through 6, it shows an additional credit reduction if your benefit cost rate is higher than your tax rate, Kansas is not in this situation, so this does not apply.

The Chair asked Ms. Sparks, no matter what, our FUTA rate goes up until the loan is paid off? (Yes.) So eventually when you explain the repayment plan, we will want to know how high they expect the FUTA rates to go over the next few years? (Yes.)

3.) FUTA Credit Reduction Cap – stating if the following criteria are met: if you have taken no action to decrease the solvency of the fund in the prior Federal Fiscal Year; state's average tax on total wage exceed 5 year benefit cost rate on total wages and Kansas is in this situation; and the loan balance is not greater than the balance 3 years earlier.

4.) Available UI Benefits -Kansas Shared Work Program – established in 1978 and reduces the operating costs on employers. Qualified employers have an established experience rating and are positive balance employers.. However, if they are a negative balance employer, want to take part in the program, have paid everything in January, and current in their records, the DOL considers them a positive balance employer. Also to qualify, an employer must submit a plan to the DOL that affects at least 10% of the employees in the affected work unit and propose a minimum 20% reduction but no more than a 40% reduction, in hours for each employee in the plan. In 2007, the DOL had 40 employers who participated in this program, by last year they had 305.

The Chair recognized Senator Holland who asked what are employers doing after a certain amount of time, are they still laying off? (Did not have the information with her but they would get it to the Committee.) If the employee is on a reduced work week and receiving partial benefits, would that count against their unemployment benefits if they got laid off? (Yes.)

5.) Maximum and Minimum Benefit Amounts - explained how they calculate, stating the maximum is 60% of the weekly average salary in Kansas and the minimum is 25% of the maximum. To qualify, the individual has received wages from insured employment in two or more quarters of the base period and has total base period wages equaling at least 30 times the weekly benefit amount earned from an employer in Kansas.

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The minutes of the Senate Commerce Committee at 8:15 a.m. on January 26, 2011, in Room 548-S of the Capitol.

6.) Disqualification for Unemployment Insurance Benefits - including voluntarily left work without good cause, was discharges for misconduct connected with the work, failed to accept or apply for work when offered by the employment office or an employer.

In the interest of time, she offered a flow chart showing The Process of Benefit Approval, the Statistics on Appeals, Determining the Benefit Amount, the Average Duration of Benefits including from fourth quarter 2009 to the third quarter 2010 was 19.0 weeks and the U.S. Average during this time was 19.4 weeks. Lastly, 5 charts on Comparing Benefits Statistics for 2010.

- for the minimum wage required to qualify for benefits in Kansas for 2010, the sum of the wages must be at least \$3,270 for four of the last five quarters but they would have had to work in at least two of those quarters.

The Chair asked if this was how we cover part-time employee? (This is a separate calculation.)

- the minimum weekly benefit payment amount is one-third of the \$3,270 or \$1,090 and paid out in 10 payments of \$109 each.

- the maximum weekly benefit payment amount was \$436, ranking Kansas 23rd.

- the minimum potential benefits amount which for Kansas we are eighth.

- the maximum weekly benefit payment amount of \$436 times 26 weeks = \$11,336 and is taxable.

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

Adjournment

As it was going on 9:30 a.m., Chairperson Wagle adjourned the meeting. The time was 9:31 a.m.

The next meeting is scheduled for January 27, 2011.

SENATE COMMERCE COMMITTEE GUEST LIST

DATE: Wednesday January 26
2011

NAME	REPRESENTING
Garin Brownlee	KDOL
Inayat Noor Mohamed	KDOL
Katie Spauldo	KDOL
Heather Sam	KDOL
Jenna Keesling	KDOL
Karl Hansen	KDOL
Joe T. Vindino	KDOL
Bob Lierz	KDOL
Andy Sanchez	KS AFL-CIO
Sam Allen	Legis
Tara Mays	KDOT
Jenna	
Kevin Brand	KIIA
Matt Strauss	KIIA
Corey Kenney	City of Lenexa

www.dol.ks.gov

Introduction to the Kansas Unemployment Insurance Program: A Guide to Understanding the UI Trust Fund and Tax Contributions

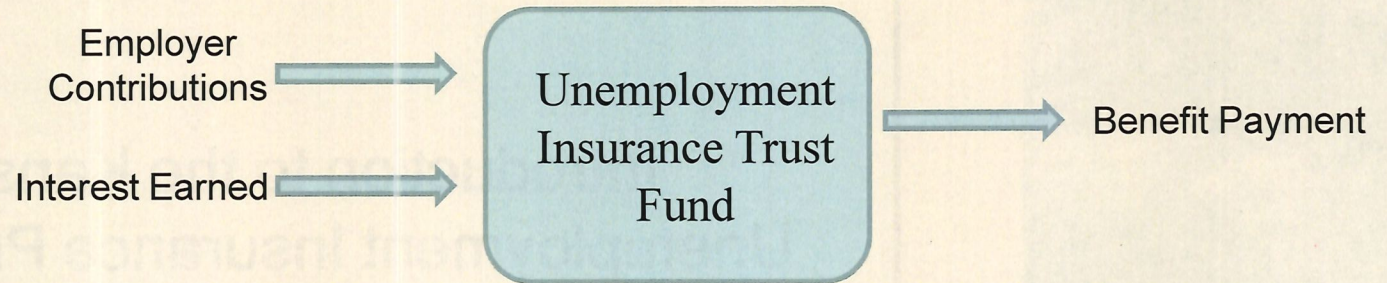
Kansas Department of Labor
January 2011


KANSAS
DEPARTMENT OF LABOR

*Senate Commerce Committee
Date: 1-26-11
Attachment 1*

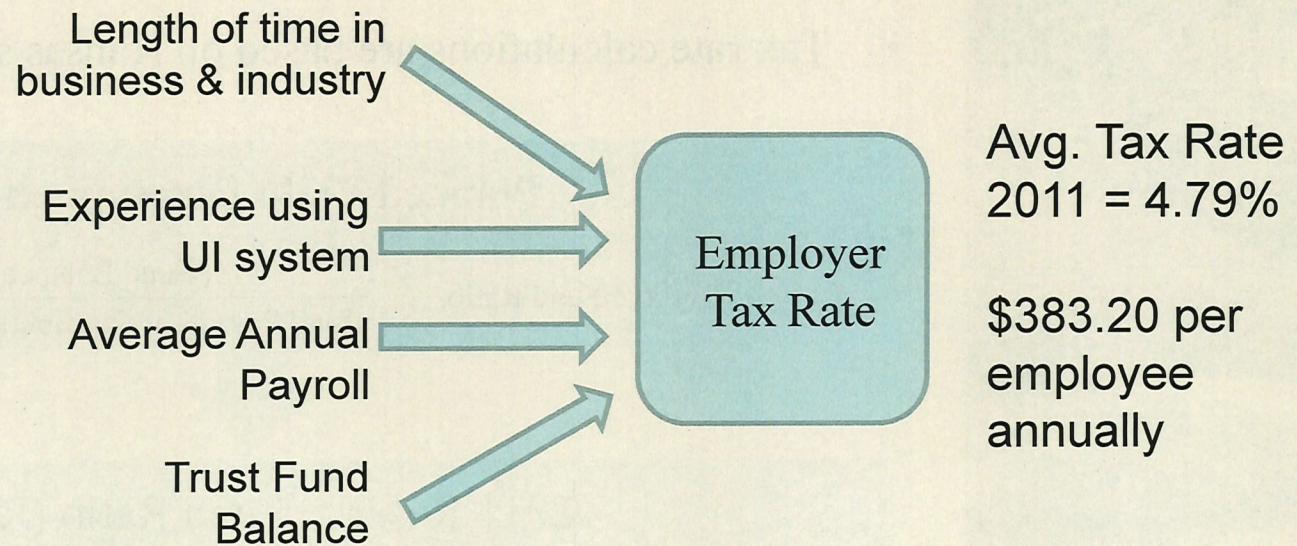


Unemployment Insurance Trust Fund



- UI Trust Fund monies can only be used to pay benefits
- Trust Fund Balance as of 1/25/2011 = \$0
- Trust Fund Loans as of 1/25/2011 = \$100.8 million

Employer Tax Rates



- Reduced tax rates or Standard Tax rates – 2007 SB 83
 - In effect in 2007, 2008 & 2009
- Reduced Tax Rates not triggered for 2010 & 2011
- House Bill 2676 – Reduced Rate
 - \$43 Million relief CY 2010
 - \$75.8 Million relief CY 2011

Calculating the UI Tax Rates

- Tax rate calculations are based on Kansas statute KS 44-710a

Planned Yield Determination

$$\text{Reserve Fund Ratio} = \frac{\text{Trust Fund Balance as of July 31}^{\text{st}}}{\text{Total Payroll of contributing employers (SFY)}}$$

2011 Reserve Fund Ratio (RFR)

$$2011 \text{ RFR} = 0.076 = \frac{\$29,218,341}{\$38,269,405,914}$$

Determine Tax Rate on total payroll (Schedule III in statute)

Tax Rate on Total Wages

Tax Rate on Taxable Wages

Schedule III - Fund Control Ratio to Total Wages

44-710a

Employment Security Law

44-710a

SCHEDULE III - Fund Control Ratio to Total Wages

Column A Reserve Fund Ratio	Column B Planned Yield
4.500 and over.....	0.00
4.475 but less than 4.500.....	0.01
4.450 but less than 4.475.....	0.02
4.425 but less than 4.450.....	0.03
4.400 but less than 4.425.....	0.04
4.375 but less than 4.400.....	0.05
4.350 but less than 4.375.....	0.06
4.325 but less than 4.350.....	0.07
4.300 but less than 4.325.....	0.08
4.275 but less than 4.300.....	0.09
4.250 but less than 4.275.....	0.10
4.225 but less than 4.250.....	0.11
4.200 but less than 4.225.....	0.12
4.175 but less than 4.200.....	0.13
4.150 but less than 4.175.....	0.14
4.125 but less than 4.150.....	0.15
4.100 but less than 4.125.....	0.16
4.075 but less than 4.100.....	0.17
4.050 but less than 4.075.....	0.18
4.025 but less than 4.050.....	0.19
4.000 but less than 4.025.....	0.20
3.950 but less than 4.000.....	0.21
3.900 but less than 3.950.....	0.22
3.850 but less than 3.900.....	0.23
3.800 but less than 3.850.....	0.24
3.750 but less than 3.800.....	0.25
3.700 but less than 3.750.....	0.26
3.650 but less than 3.700.....	0.27
3.600 but less than 3.650.....	0.28
3.550 but less than 3.600.....	0.29
3.500 but less than 3.550.....	0.30
3.450 but less than 3.500.....	0.31
3.400 but less than 3.450.....	0.32
3.350 but less than 3.400.....	0.33
3.300 but less than 3.350.....	0.34
3.250 but less than 3.300.....	0.35
3.200 but less than 3.250.....	0.36
3.150 but less than 3.200.....	0.37
3.100 but less than 3.150.....	0.38
3.050 but less than 3.100.....	0.39
3.000 but less than 3.050.....	0.40
2.950 but less than 3.000.....	0.41
2.900 but less than 2.950.....	0.42
2.850 but less than 2.900.....	0.43
2.800 but less than 2.850.....	0.44
2.750 but less than 2.800.....	0.45
2.700 but less than 2.750.....	0.46
2.650 but less than 2.700.....	0.47
2.600 but less than 2.650.....	0.48
2.550 but less than 2.600.....	0.49
2.500 but less than 2.550.....	0.50
2.450 but less than 2.500.....	0.51
2.400 but less than 2.450.....	0.52
2.350 but less than 2.400.....	0.53

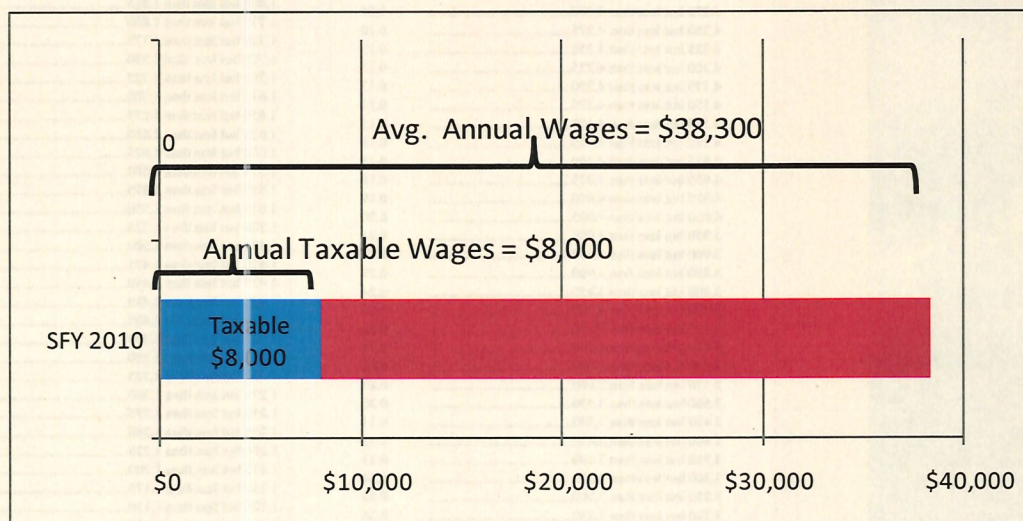
2.300 but less than 2.350.....	0.54
2.250 but less than 2.300.....	0.55
2.200 but less than 2.250.....	0.56
2.150 but less than 2.200.....	0.57
2.100 but less than 2.150.....	0.58
2.050 but less than 2.100.....	0.59
2.000 but less than 2.050.....	0.60
1.975 but less than 2.000.....	0.61
1.950 but less than 1.975.....	0.62
1.925 but less than 1.950.....	0.63
1.900 but less than 1.925.....	0.64
1.875 but less than 1.900.....	0.65
1.850 but less than 1.875.....	0.66
1.825 but less than 1.850.....	0.67
1.800 but less than 1.825.....	0.68
1.775 but less than 1.800.....	0.69
1.750 but less than 1.775.....	0.70
1.725 but less than 1.750.....	0.71
1.700 but less than 1.725.....	0.72
1.675 but less than 1.700.....	0.73
1.650 but less than 1.675.....	0.74
1.625 but less than 1.650.....	0.75
1.600 but less than 1.625.....	0.76
1.575 but less than 1.600.....	0.77
1.550 but less than 1.575.....	0.78
1.525 but less than 1.550.....	0.79
1.500 but less than 1.525.....	0.80
1.475 but less than 1.500.....	0.81
1.450 but less than 1.475.....	0.82
1.425 but less than 1.450.....	0.83
1.400 but less than 1.425.....	0.84
1.375 but less than 1.400.....	0.85
1.350 but less than 1.375.....	0.86
1.325 but less than 1.350.....	0.87
1.300 but less than 1.325.....	0.88
1.275 but less than 1.300.....	0.89
1.250 but less than 1.275.....	0.90
1.225 but less than 1.250.....	0.91
1.200 but less than 1.225.....	0.92
1.175 but less than 1.200.....	0.93
1.150 but less than 1.175.....	0.94
1.125 but less than 1.150.....	0.95
1.100 but less than 1.125.....	0.96
1.075 but less than 1.100.....	0.97
1.050 but less than 1.075.....	0.98
1.025 but less than 1.050.....	0.99
1.000 but less than 1.025.....	1.00
0.900 but less than 1.000.....	1.01
0.800 but less than 0.900.....	1.02
0.700 but less than 0.800.....	1.03
0.600 but less than 0.700.....	1.04
0.500 but less than 0.600.....	1.05
0.400 but less than 0.500.....	1.06
0.300 but less than 0.400.....	1.07
0.200 but less than 0.300.....	1.08
0.100 but less than 0.200.....	1.09
Less than 0.100%.....	1.10

1.10% of total
wages will provide
the required yield

2011 RFR = .076

Tax Rate on Total & Taxable Wages

- Schedule III provides the tax rate on total wages needed to generate the required yield



Average Tax Rate for 2011:

<u>Total Wages</u>	<u>Taxable Wages</u>
1.10%	4.79%

Planned Yield

- Taxable Wages for Fiscal Year 2010 were \$8,787,446,530
- Planned Yield for 2011 is determined by multiplying the taxable wages by the rate

Planned Yield for 2011:

$$\$8,787,446,530 \times 4.79\% = \$420,918,689$$

- The Planned Yield for 2010 was \$406.9 million, but HB 2676 rates reduced the Planned Yield to \$363.5 million
- This Planned Yield is collected from Kansas employers for deposit into the Unemployment Insurance Trust Fund to be used for UI benefit payment

Types of Employers

Ineligible Employers

New employers who do not have 24 consecutive months of chargeability are not eligible for experience rating

Negative Balance Employers

Employers who have had more money charged against their account for benefits than they have paid in contributions

Positive Balance Employers

Employers who have paid in more money in contributions than the amount of benefits charged against their account

Types of Employers

Ineligible Employers

Ineligible employers have set rates:

- 6.0% - Construction industry
- 4.0% - All other industries

Negative Balance Employers

- Rate is 5.4% plus a surcharge that is based on their account balance and average annual payroll

- Surcharge ranges from 0.2% to 2.0%
- Rates will range from 5.6% to 7.4%

Positive Balance Employers

- Rate is determined based on their UI experience

- Arrayed across 51 rate groups
- Maximum rate is 5.4%

Employer Tax Amount Determination

Planned Yield Identified

- Based on statute 44-710a (as mentioned in earlier slides)
- CY 2011 = **\$420,900,000**

Estimate Amount from Ineligible Employers

- This amount is deducted from planned yield
- CY 2011 = **\$14,287,232**

Estimated Amount from Negative Balance Employers

- This amount is deducted from planned yield
- CY 2011 = **\$75,733,577**

Amount left to be collected from Positive Balance Employers

- Amount to collect from 51 rate groups
- $\$420,900,000 - \$14,287,232 - \$75,733,577 = \mathbf{\$330,879,191}$

Tax Relief - 2010 House Bill 2676

- For calendar year 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.
- 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.



2011 Employer Tax Collection

2011 Calculated Planned Yield = \$420,918,689

Calculated Amount To Be Collected From:

- Ineligible Employers = \$14,287,232
- Negative Balance Employers = \$75,733,577
- Positive Balance Employers = \$330,897,880

Total Estimated Yield = \$420,918,689

Reduced HB 2676 Amount To Be Collected From:

- Ineligible Employers = \$14,287,232
- Negative Balance Employers = \$75,733,577
- Positive Balance Employers = \$255,103,112

Total Estimated Yield = \$345,123,921

Positive Balance Employers

- Positive balanced employers arrayed across 51 rate groups
 - Based on individual employer's reserve ratio
 - Ratio of employer's account balance to employer's average annual payroll
- Employers with more favorable ratios are placed in the lower numbered rate groups
- Goal is to equally spread wages across each of 51 rate groups (1.96% of taxable wages in each rate group)

2011 Calculated Tax Rates

Rate Group	Experience Factor	SFY 2010 Taxable Wages	Contribution Rate	Estimated Yield
1	0.025	\$139,180,195	0.29	\$403,623
2	0.04	\$134,485,635	0.47	\$632,082
3	0.08	\$136,917,608	0.94	\$1,287,026
4	0.12	\$136,955,611	1.41	\$1,931,074
5	0.16	\$136,718,941	1.88	\$2,570,316
6	0.20	\$136,940,739	2.35	\$3,218,107
7	0.24	\$137,315,024	2.81	\$3,858,552
8	0.28	\$136,712,213	3.28	\$4,484,161
9	0.32	\$136,576,220	3.75	\$5,121,608
10	0.36	\$136,778,184	4.22	\$5,772,039
11	0.40	\$137,606,333	4.69	\$6,453,737
12	0.44	\$177,569,575	5.16	\$9,162,590
13	0.48	\$95,804,282	5.40	\$5,173,431
14	0.52	\$137,248,132	5.40	\$7,411,399
15	0.56	\$137,634,500	5.40	\$7,432,263
16	0.60	\$135,006,857	5.40	\$7,290,370
17	0.64	\$161,451,537	5.40	\$8,718,383
18	0.68	\$112,864,682	5.40	\$6,094,693
19	0.72	\$136,250,179	5.40	\$7,357,510
20	0.76	\$141,818,925	5.40	\$7,658,222
21	0.80	\$132,447,430	5.40	\$7,152,161
22	0.84	\$244,403,721	5.40	\$13,197,801
23	0.88	\$29,839,630	5.40	\$1,611,340
24	0.92	\$135,487,922	5.40	\$7,316,348
25	0.96	\$136,907,800	5.40	\$7,393,021
26	1.00	\$136,617,985	5.40	\$7,377,371

Rate Group	Experience Factor	SFY 2010 Taxable Wages	Contribution Rate	Estimated Yield
27	1.04	\$139,581,768	5.40	\$7,537,415
28	1.08	\$134,361,628	5.40	\$7,255,528
29	1.12	\$136,896,157	5.40	\$7,392,392
30	1.16	\$137,654,648	5.40	\$7,433,351
31	1.20	\$137,194,338	5.40	\$7,408,494
32	1.24	\$152,664,874	5.40	\$8,243,903
33	1.28	\$119,448,384	5.40	\$6,450,213
34	1.32	\$136,920,146	5.40	\$7,393,688
35	1.36	\$137,109,868	5.40	\$7,403,933
36	1.40	\$136,469,232	5.40	\$7,369,339
37	1.44	\$136,781,227	5.40	\$7,386,186
38	1.48	\$146,256,664	5.40	\$7,897,860
39	1.52	\$131,400,556	5.40	\$7,095,630
40	1.56	\$133,019,572	5.40	\$7,183,057
41	1.60	\$137,225,784	5.40	\$7,410,192
42	1.64	\$137,256,631	5.40	\$7,411,858
43	1.68	\$136,365,479	5.40	\$7,363,736
44	1.72	\$138,360,393	5.40	\$7,471,461
45	1.76	\$137,863,810	5.40	\$7,444,646
46	1.80	\$137,935,818	5.40	\$7,448,534
47	1.84	\$132,626,277	5.40	\$7,161,819
48	1.88	\$140,213,582	5.40	\$7,571,533
49	1.92	\$139,521,289	5.40	\$7,534,150
50	1.96	\$130,993,216	5.40	\$7,073,634
51	2.00	\$139,317,375	5.40	\$7,523,138
Total		\$6,980,978,576		\$330,944,920

- The maximum rate calculated was 9.49%
- All rate groups over the 5.4% maximum must be recalculated and other groups' rates must be raised in order to generate the required yield

Yearly Schedule

- Tax rate notices sent in mid-December
- Review and redetermination can be requested within 15 days
- Employers file Quarterly Wage Reports (QWR) and pay tax contributions at the end of each quarter
 - 1st Quarter due April 30th
 - 2nd Quarter due July 31st
 - 3rd Quarter due October 31st
 - 4th Quarter due January 31st
- HB 2676 provides a 90-day interest free grace period for contribution payments for the 1st, 2nd, and 3rd quarters of 2010 and 2011.



2011 HB 2676 Tax Rates

Rate Group	Experience Factor	SFY 2010 Taxable Wages	Contribution Rate	Estimated Yield
1	0.025	\$139,180,195	0.11	\$153,098
2	0.04	\$134,485,635	0.17	\$228,626
3	0.08	\$136,917,608	0.34	\$465,520
4	0.12	\$136,955,611	0.51	\$698,474
5	0.16	\$136,718,941	0.68	\$929,689
6	0.20	\$136,940,739	0.85	\$1,163,996
7	0.24	\$137,315,024	1.01	\$1,386,882
8	0.28	\$136,712,213	1.18	\$1,613,204
9	0.32	\$136,576,220	1.35	\$1,843,779
10	0.36	\$136,778,184	1.52	\$2,079,028
11	0.40	\$137,606,333	1.69	\$2,325,547
12	0.44	\$177,569,575	1.86	\$3,302,794
13	0.48	\$95,804,282	2.03	\$1,944,827
14	0.52	\$137,248,132	2.20	\$3,019,459
15	0.56	\$137,634,500	2.37	\$3,261,938
16	0.60	\$135,006,857	2.54	\$3,429,174
17	0.64	\$161,451,537	2.71	\$4,375,337
18	0.68	\$112,864,682	2.88	\$3,250,503
19	0.72	\$136,250,179	3.04	\$4,142,005
20	0.76	\$141,818,925	3.21	\$4,552,387
21	0.80	\$132,447,430	3.38	\$4,476,723
22	0.84	\$244,403,721	3.55	\$8,676,332
23	0.88	\$29,839,630	3.72	\$1,110,034
24	0.92	\$135,487,922	3.89	\$5,270,480
25	0.96	\$136,907,800	4.06	\$5,558,457
26	1.00	\$136,617,985	4.23	\$5,778,941

Rate Group	Experience Factor	SFY 2010 Taxable Wages	Contribution Rate	Estimated Yield
27	1.04	\$139,581,768	4.40	\$6,141,598
28	1.08	\$134,361,628	4.57	\$6,140,326
29	1.12	\$136,896,157	4.74	\$6,488,878
30	1.16	\$137,654,648	4.90	\$6,745,078
31	1.20	\$137,194,338	5.07	\$6,955,753
32	1.24	\$152,664,874	5.24	\$7,999,639
33	1.28	\$119,448,384	5.40	\$6,450,213
34	1.32	\$136,920,146	5.40	\$7,393,688
35	1.36	\$137,109,868	5.40	\$7,403,933
36	1.40	\$136,469,232	5.40	\$7,369,339
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49	1.92	\$139,521,289	5.40	\$7,534,150
50	1.96	\$130,993,216	5.40	\$7,073,634
51	2.00	\$139,317,375	5.40	\$7,523,138
Total		\$6,980,978,576		\$255,103,112



Trust Fund Borrowing

- The Kansas UI Trust Fund was fully depleted in February 2010 and advances were issued from the U.S. Treasury during February, March, and April
- On Jan. 19, 2011, the UI Trust Fund was again depleted and additional advances were issued
- The current outstand loan balance is \$100.8 million
- As of Jan.21st, 36 states have received Trust Fund advances
- Funds are transferred into the Kansas Trust Fund daily and on an as needed basis
- Kansas draws down all available funds from it's own Trust Fund. If that amount is not sufficient to satisfy the UI benefit payments for that day, then the remaining amount is drawn from the Federal Unemployment Account.



Interest on Trust Fund Loans

- Through ARRA, Trust Fund loans have been interest free through 2010. Interest began accruing on Jan. 1, 2011.
- Interest accrues daily on advances on a federal fiscal year basis
- Interest rate changes each calendar year at a rate equal to rate earned by the Unemployment Trust Fund from October through December
- Interest is generally due and payable no later than Sept. 30
- Interest cannot be paid directly or indirectly from funds in the state's unemployment fund – 3304(a)17 FUTA
- Reed Act funds cannot be used to pay interest as they reside in the fund

Interest Calculation Example

A state borrows \$10 million on Nov. 1, 2009
(remains outstanding on Oct. 1st 2010)

Example Below Assumes The Suspension of Interest Provision in the Recovery Act did not exist

2009 Interest (61 days) at 4.6375% = \$77,503.55
2010 Interest (273 days) at 4.3646% = \$326,447.94

Total Interest Due 9/30/10 = \$403,951.49

To calculate the daily interest rate take the annual percentage rate (APR) and divide by 365.

FUTA Credit Reduction

- If a state retains a loan balance on January 1st for two consecutive years and has not fully repaid all loans on November 10th of the second year, contributory employers may be subject to reduction of their FUTA credit.
- The credit reductions generally increase those employers' effective FUTA rate by 0.3% each year the balance remains unpaid.
- Receipts credited against the loan balance.

Schedule of FUTA Offset Credit Reductions

Year After First Loan ¹	Basic Credit Reduction (%)	Additional Credit Reduction (%)	Total FUTA Rate (%) ²
1	0.0	0.0	0.8
2	0.3	0.0	1.1
3	0.6	2.7 Add-on	1.4 or more
4	0.9	2.7 Add-on	1.7 or more
5	1.2	BCR Add-on ³	2.0 or more
6	1.5	BCR Add-on	2.3 or more
*	*	*	*
*	*	*	*
*	*	*	*
19	5.4	BCR Add-on	6.2

¹ In terms of consecutive January 1st with an outstanding balance

² FUTA rate with full 5.4% credit is currently 0.8%, but is scheduled to drop to 0.6% in July 2011

³ If BCR Add-on is waived, 2.7 Add-on applies



1-2-1

Avoidance of FUTA Credit Reduction

- A state may avoid credit reduction by:
 - Paying an amount equal to the amount employers would pay through credit reductions;
 - Increasing solvency by an amount equal to amount of FUTA credits employer would lose;
 - Repaying any advances received during the one one-year period ending Nov. 9 that year; and
 - Not borrowing from Nov. 1 of the tax year through Jan. 31 the following year.

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Introduction to the Kansas Unemployment Insurance Program: A Guide to Understanding UI Benefits


KANSAS
DEPARTMENT OF LABOR

*Senate Commerce Committee
Date: 1-26-11
Attachment 2*



FUTA Credit Reduction Cap

- Beginning with the 2nd year a state faces credit reduction, states may have the reduction capped if these criteria are met:
 - No action taken by state during previous FFY to reduce tax effort or decrease solvency;
 - State's avg. tax on total wage exceed 5 year benefit cost rate on total wages;
 - Loan balance not greater than balance 3 years earlier.
- A state who qualifies for a cap will have their credit reduction set at the greater of 0.6% or the prior year's level
- If the state qualifies for a cap, that year is not counted in the number of consecutive January 1sts

Available UI Benefits

What unemployment benefits are available?

Up to 86 weeks of unemployment benefits available



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"> ★ Available for up to 26 weeks (length depends on employment history and earnings) ★ To receive unemployment benefits, you must be: <ul style="list-style-type: none"> • Able and available to work • Actively seeking employment • Unemployed due to no fault of your own 	<ul style="list-style-type: none"> ★ Program began July 6, 2008 ★ Up to 20 weeks of extended unemployment benefits are available under the Emergency Unemployment Compensation (EUC08) Act. ★ Workers potentially eligible for extended benefits: <ul style="list-style-type: none"> • Have filed a valid UI claim and exhausted all regular UI benefits • Have no rights to regular compensation • Have had 20 weeks of full-time insured employment or the equivalent in insured wages • 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 ★ 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. 	<ul style="list-style-type: none"> ★ Effective June 7, 2009 ★ Originally provided up to 13 weeks of additional benefits. ★ Legislation passed on Nov. 6, 2009, extended the total weeks available from 13 to 14. One-week extension effective week ending Nov. 14, 2009. ★ 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. ★ If you received EUC Tier I benefits, you are likely to be eligible for Tier II benefits. <ul style="list-style-type: none"> • If eligible, benefits will roll over from Tier I to Tier II and claimants will not need to fill out an additional application ★ 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. 	<ul style="list-style-type: none"> ★ Effective Nov. 8, 2009 ★ Up to an additional 13 weeks of benefits are available under Tier III EUC. ★ To be eligible for Tier III benefits, individuals must meet the following criteria: <ul style="list-style-type: none"> • Exhausted regular state unemployment insurance benefits and Tier I and II EUC benefits • Not eligible for a new state unemployment insurance claim in any state or in Canada ★ 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. 	<ul style="list-style-type: none"> ★ The first week a Kansas claimant was eligible for state extended benefits was the week ending August 8, 2009. ★ Up to 13 weeks of additional benefits are available through the State Extended Benefits program. ★ 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%. ★ To be eligible you must meet the following criteria: <ul style="list-style-type: none"> • Exhausted regular state unemployment insurance benefits, EUC Tier I, II and III benefits • Not eligible for a new state unemployment insurance claim in any state or in Canada ★ 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.
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.

Last Updated 12-17-10

Available UI Benefits - Shared Work Program

- Qualifying employers may reduce the working hours of their employees, and those employees can collect unemployment insurance benefits for the remaining hours
 - Reduced operating costs for employers
 - Provides monetary support for furloughed employees
 - Save UI benefit costs by preventing layoffs
- To qualify for the Shared Work program, an employer must:
 - Submit a Shared Work application to KDOL
 - Have established an experience rating
 - Have a positive UI account balance
 - Be current on all UI tax payments and quarterly wage report filings
- Participation in the Shared Work Program has significantly increased during the recession:
 - 2007 – 40 employers
 - 2008 – 136 employers
 - 2009 – 509 employers
 - 2010 – 305 employers

Available UI Benefits - Shared Work Program

- To qualify for the Shared Work program, an employer must also:
 - Submit a plan that affects at least 10% of the employees in the affected work unit
 - Propose a minimum 20% reduction, but no more than a 40% reduction, in hours for each employee in the plan

Sample Shared Work UI Benefit Calculation:

Employee Earns - \$41,036.00/yr; \$789.15/wk

UI Weekly Benefit Amount - \$435.00

Weekly Wage with 20% reduction - \$631.32

Work Share payment @ 20% - \$87

Employee's Total Income for Week – \$718.32

-
- The employee must be able to establish a regular claim for benefits, based upon their last eighteen-month earnings to have benefits available under the Shared Work program

Minimum & Maximum Benefit Amounts

Weekly Benefit Amount (WBA)
Minimum, Maximum and Average
SFY 2002 - 2011

<u>Fiscal Year</u>	<u>Minimum WBA</u>	<u>Maximum WBA</u>	<u>Average WBA</u>
2002	\$83.00	\$333.00	\$269.66
2003	86.00	345.00	272.63
2004	87.00	351.00	269.66
2005	89.00	359.00	268.78
2006	93.00	373.00	278.74
2007	96.00	386.00	290.62
2008	101.00	407.00	305.28
2009	105.00	423.00	337.01
2010	109.00	436.00	336.16
2011	108.00	435.00	N/A

N/A Not Available

Who Qualifies for Benefits?

- The individual has made a claim for benefits.
- The individual has registered for work.
- The individual is able to work, available for work, and is actively seeking work.
- The individual has been unemployed and has claimed a waiting period of one week which occurs within the benefit year.
- The individual has received wages from insured employment in two or more quarters of the base period, and has total base period wages equaling at least 30 times the weekly benefit amount earned from an employer in Kansas.
- The individual's employment was for services not specifically excluded by the act.
- The individual who is not disqualified in accordance with provisions of the law.

Disqualification for Unemployment Insurance Benefits

•A claimant is disqualified beginning with the day after the separation until re-employed and has had insured earnings of at least three times the determined weekly benefit amount if the claimant:

- Voluntarily left work without good cause attributable to the work or the employer. There are 12 specific exceptions whereby benefits may be payable. A claims representative will provide further information.

- Was discharged for misconduct connected with the work. There are specific circumstances that are not disqualifying. A claims representative will provide further information.

- Failed, without good cause, to apply for or to accept suitable work when offered by the employment office or an employer.

- Failed, after a temporary job assignment, to affirmatively request an additional assignment on the next succeeding workday, if required by the employment agreement, after completion of a given work assignment.

•A claimant discharged for gross misconduct connected with the work is disqualified until reemployed and has had insured earnings of at least eight times the determined weekly benefit amount. In addition, all wage credits attributable to the employment from which the individual was discharged for gross misconduct are canceled.

•A one-year disqualification is applied for making false statements or for withholding information to obtain more benefits than due.

Disqualification for Unemployment Insurance Benefits

- Benefits are denied for each week in which the claimant is:
 - Unemployed because of a labor dispute in which the individual is interested, participating, or financing.
 - Claiming or receiving benefits under another state or federal law.
 - Receiving compensation for temporary total or permanent total disability under the worker's compensation law of a state or the United States.
 - Not able to perform the duties of the individual's customary occupation or the duties of other occupations for which the individual is reasonably fitted by training or experience.
 - Not pursuing a full course of action most reasonably calculated to result in reemployment.
 - Considered to be in need of reemployment services through a profiling system but fails to participate in such reemployment services or to show justifiable cause for failure to participate.

Disqualification for Unemployment Insurance Benefits

•Other disqualifications:

- Employees of educational institutions are disqualified from benefits between terms or academic years if they had a contract or reasonable assurance for their work in a recently completed academic year or term, and have a contract or reasonable assurance of employment in the same or similar position for the next academic year or term.
- A school bus or other motor vehicle driver employed by a private contractor to transport pupils, students, and school personnel to or from school-related functions or activities for an educational institution are disqualified between academic years or terms if the individual has a contract or assurance of employment for the next academic year. (Services as a bus or other motor vehicle driver for a private contractor to transport persons to or from nonschool related functions or activities are not disqualified.)
- Employees of governmental entities and nonprofit organizations described in section 501(c)(3) of the Federal Internal Revenue Code of 1986 that provide any services to or on behalf of an educational institution are disqualified for benefits between academic years or terms if the individual has a contract or assurance of employment for the next academic year or term.
- An individual is disqualified when registered at and attending an established school, training facility, or any other educational institution, or is on vacation during or between two successive academic years or terms unless engaged in full-time employment concurrent while attending school or is attending approved training.

Disqualification for Unemployment Insurance Benefits

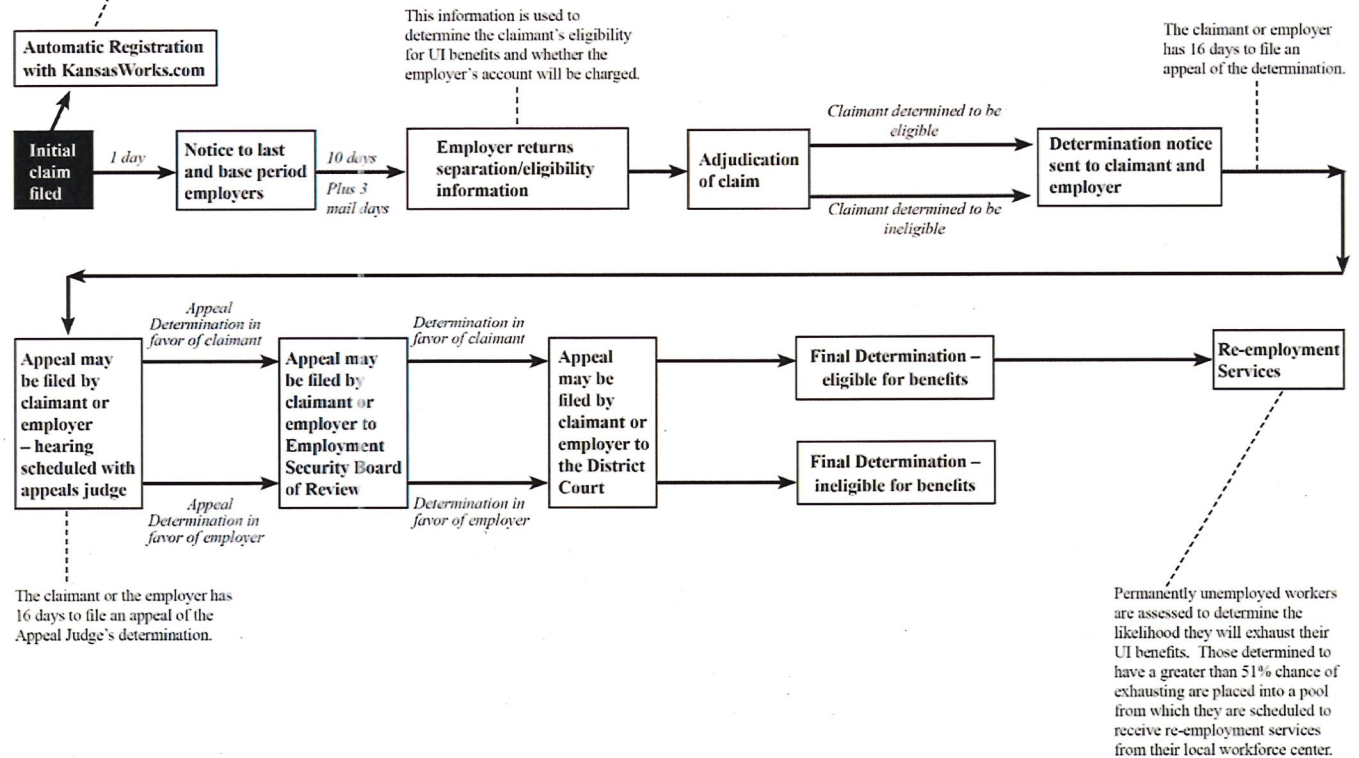
- Other disqualifications:

- Benefits based on wage credits earned as a professional athlete are not available between seasons to individuals who have been employed in the past sports season as a professional athlete and have a reasonable assurance of being again employed as a professional athlete in the following sports season.
- Wages earned by aliens while working illegally in the United States are not available to establish unemployment insurance benefits.
- The weekly benefit amount is reduced if the claimant is receiving a governmental or other pension, retirement or retired pay, annuity, or other similar periodic payment under a plan maintained by a base period employer.
- Back pay is considered as wages and is allocated to the week(s) and reported as specified in the order or agreement. If not specified, then the back pay is allocated and reported to the week(s) that wages would have been paid.
- Certain remuneration is considered wages to be reported by the claimant which is deductible from the claimant's weekly benefit amount.

The Process of Benefit Approval

Claimants who are permanently severed from employment must look for work each week to maintain eligibility. Those who are temporarily laid off or are members of a placement union do not need to seek work but must be available to accept a recall to work.

UI Initial Claim and Employer Notification Process



Statistics on Appeals

2-13

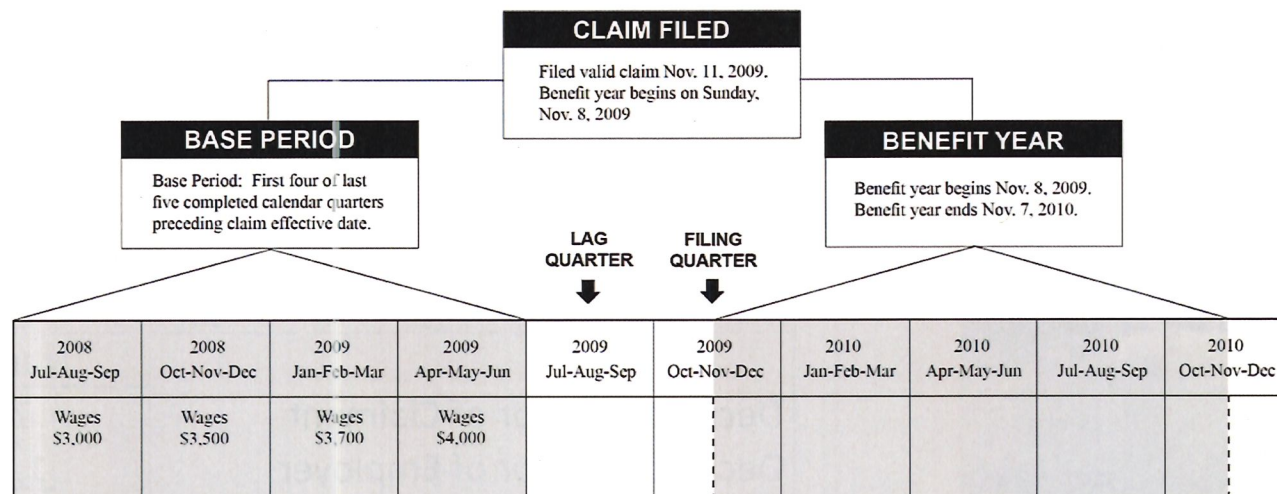
Lower Level Appeals 2010		
	Number	Percent
Decided in Favor of Claimant	8,081	47.3%
Decided in Favor of Employer	<u>9,011</u>	<u>52.7%</u>
Total Number of Appeals Filed	17,092	100.0%

Higher Level Appeals 2010		
	Number	Percent
Decided in Favor of Claimant	721	29.5%
Decided in Favor of Employer	<u>1,723</u>	<u>70.5%</u>
Total Number of Appeals Filed	2,444	100.0%



Determining the Benefit Amount

Determining the Benefit Amount



Weekly Benefit Amount (WBA)

The claimant had the highest earnings (\$4,000) in the April-May-June quarter of 2009.....\$4,000 x 4.25% = **\$170** (weekly benefit amount)

Qualifying Earnings

To qualify for benefits, the claimant must have been paid wages from insured employment in at least two quarters with total wages of at least thirty times the weekly benefit amount.....30 x \$170 = **\$5,100** (qualifying earnings)
(In this example, the claimant qualifies.)

Total Benefit Amount

\$3,000 + \$3,500 + \$3,700 + \$4,000 = \$14,200 = total base period earnings

1/3 of \$14,200 = \$4,733

26 x \$170 (weekly benefit amount) = \$4,420

\$4,420 is the Total benefit amount (since \$4,420 is less than \$4,733)..... = **\$4,420** (total benefit amount)

Alternate Base Period

If an individual has insufficient wages to establish entitlement using a traditional base period, entitlement will be calculated using an alternate base period that consists of the last four completed calendar quarters prior to the claim effective date.

Average Duration of Benefits

Weeks of Duration
CY 2000 - 2009

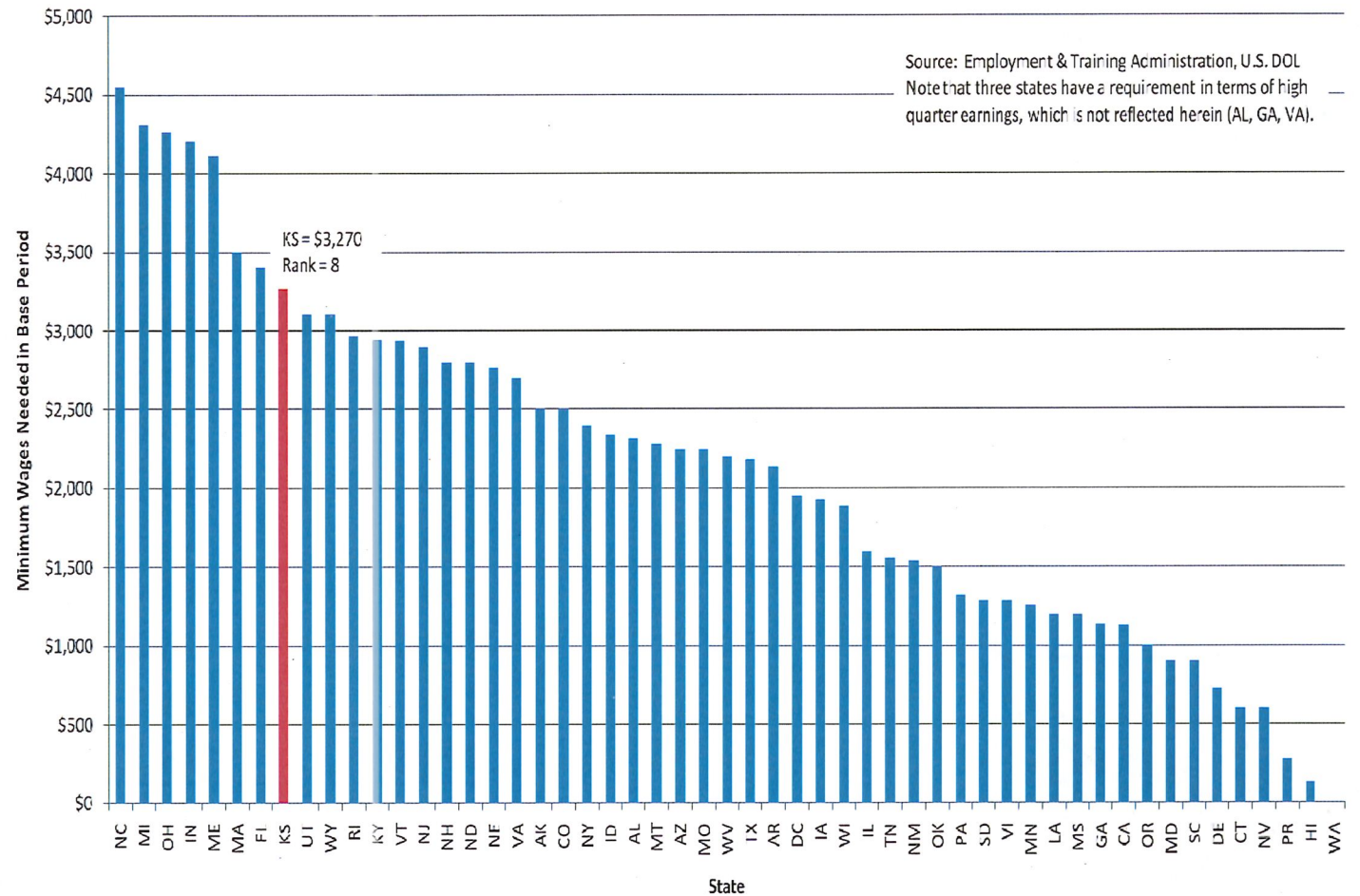
<u>Calendar Year</u>	<u>Weeks of Duration</u>
2000	13.3
2001	13.4
2002	15.8
2003	16.0
2004	16.1
2005	15.3
2006	14.4
2007	13.7
2008	14.2
2009	18.1

Average duration from 4th Qtr. 2009 to 3rd Qtr. 2010 was 19.0 weeks. The U.S. average during this time was 19.4 weeks.

2-15

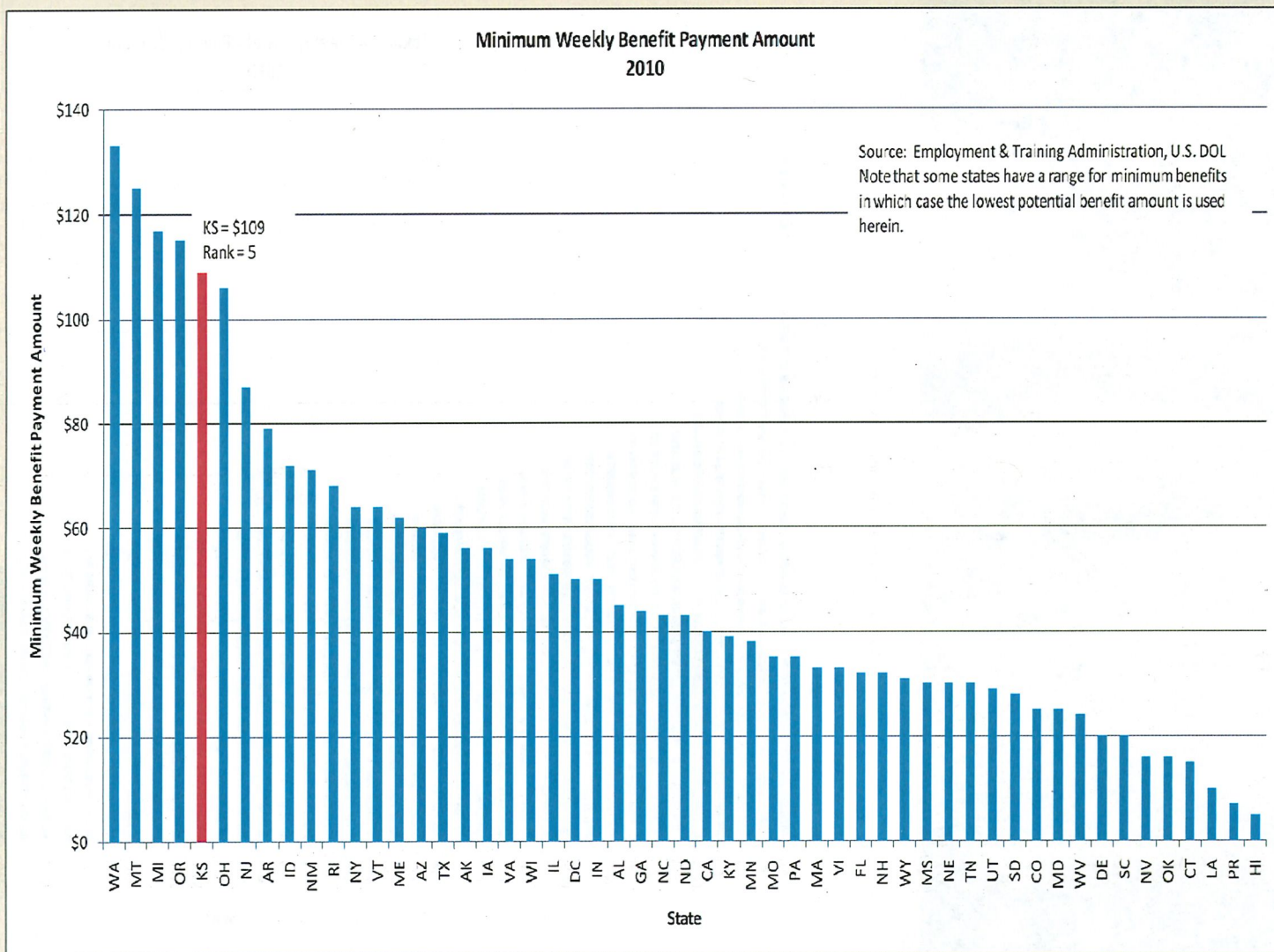
Comparing Benefits Statistics

Minimum Wages Required to Qualify for Benefits
2010

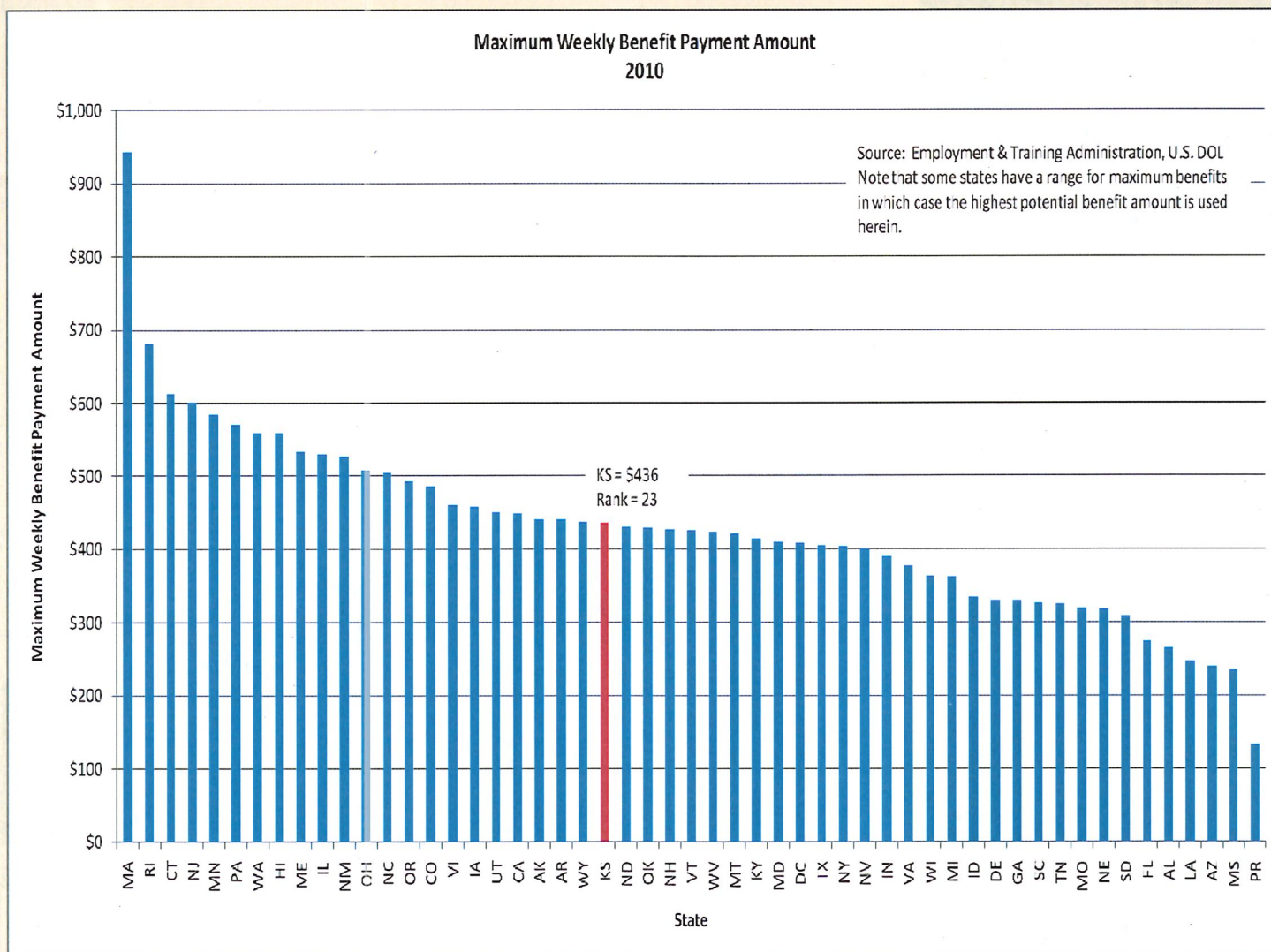


Comparing Benefits Statistics

2-17



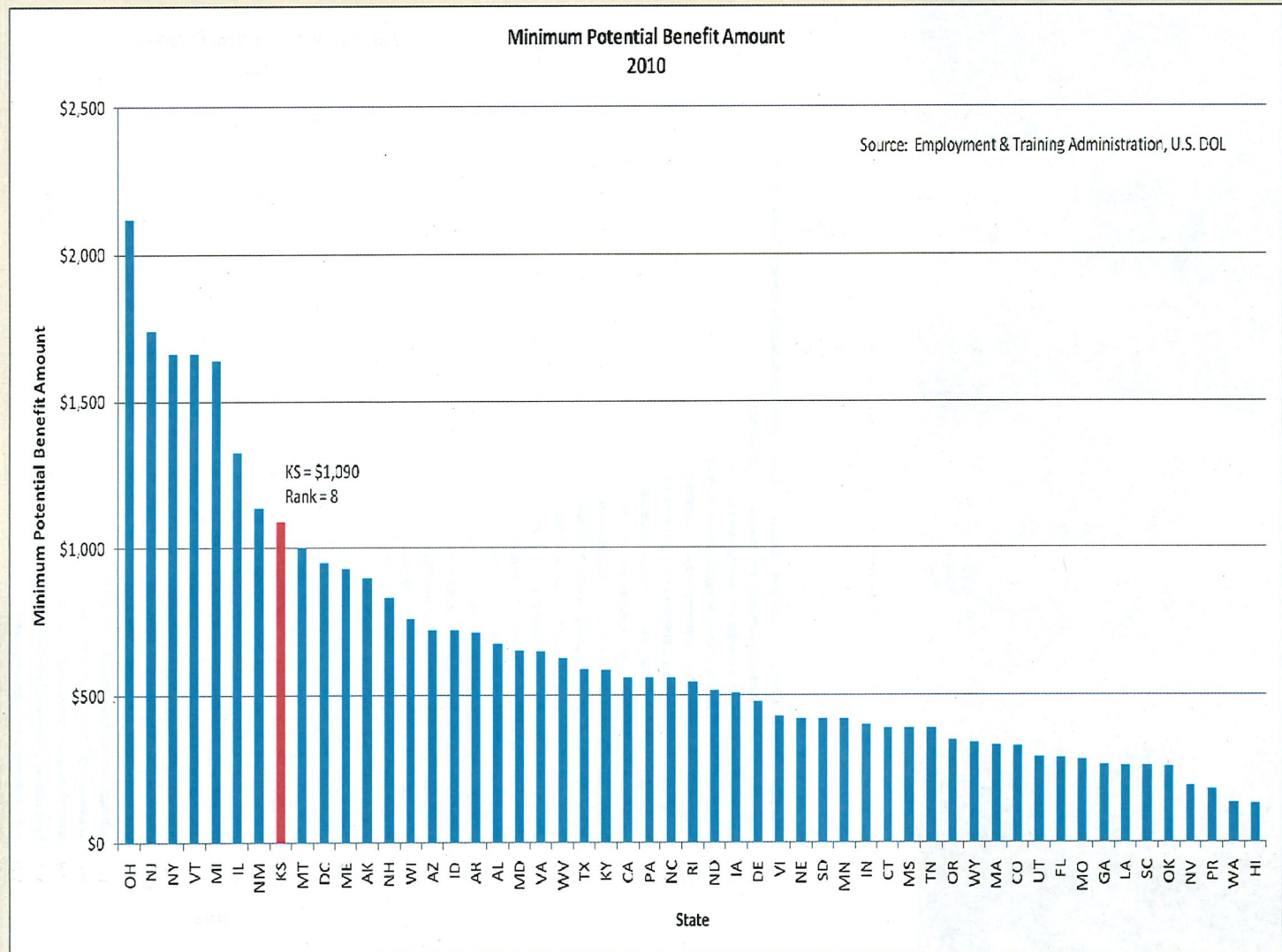
Comparing Benefits Statistics



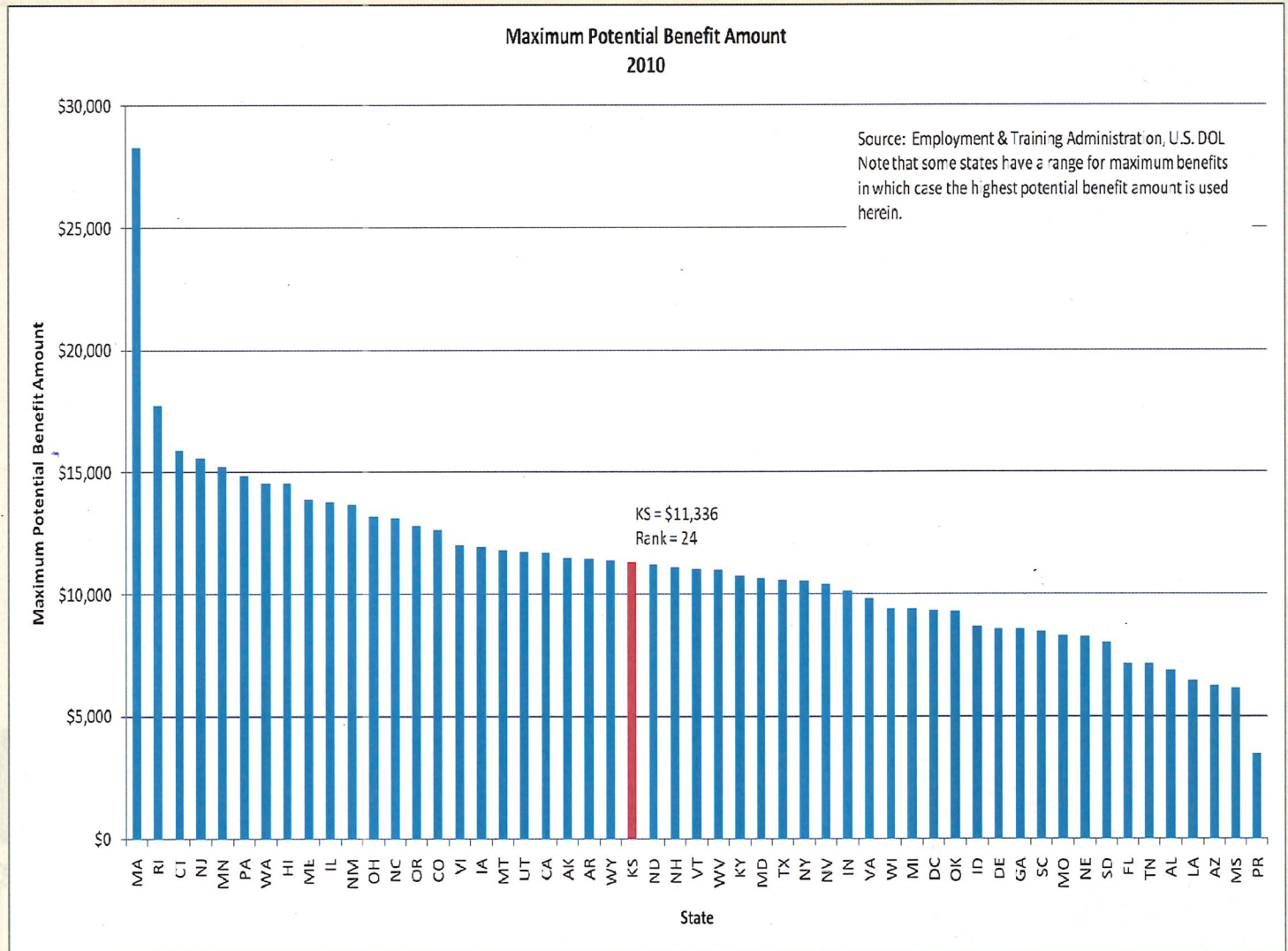
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Comparing Benefits Statistics

2-19



Comparing Benefits Statistics



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Thank You

Questions?

Kansas Department of Labor
Karin Brownlee, Secretary
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2-21