

STATE OF KANSAS

HOUSE OF REPRESENTATIVES

MR. SPEAKER:

I move to amend **SB 77**, as amended by House Committee, on page 1, by striking all in lines 8 through 31;

On page 1, in line 8, by striking "New Section 1" and inserting "Section 1";

And by renumbering the sections accordingly;

On page 22, in line 10, by striking "any or all" and inserting "each"; in line 27, by striking "any or all" and inserting "each";

On page 39, in line 29, after "2010" by inserting a comma;

On page 52, by striking all in lines 23 through 30; and inserting:

"(i) For each calendar year 2012, 2013 and 2014, an additional 0.10% of the taxable wages paid by all negative account balance employers with a negative reserve ratio between 0.0% and 19.9% shall be designated an interest assessment surcharge and paid into the employment security interest assessment fund for the purpose of paying interest due and owing on funds received from the federal unemployment account under title XII of the social security act. The total surcharges assessed, including the additional 0.10% surcharge mentioned above, on such employers are listed in schedule II column B2. For the calendar year 2015, and each calendar year thereafter, the surcharge rate for negative balance employers with a negative reserve ratio between 0.0% and 19.9% shall be as listed in schedule II column B1.

(ii) For the calendar year 2012, and each calendar year thereafter, an additional surcharge on negative balance employers with negative reserve ratio of 20.0% and higher shall be designated an interest assessment surcharge and deposited in the employment security interest assessment fund. The

additional surcharge shall be used for the purposes of paying interest due and owing on fund received from the federal unemployment account under title XII of the social security act. The total surcharge including the additional surcharge on such employers is listed in schedule II column B3 of this section.";

Also on page 52, in line 31, by striking "(ii)"; and inserting "(iii)"; and redesignating the remaining subclauses accordingly; on line 33, by striking "amount of such surcharge" and inserting "surcharge amounts";

On page 53, by striking all in lines 24 through 43;

On page 54, by striking all in lines 1 through 5, and inserting:

"Column A	Column B1	Column B2	Column B3
Negative Reserve Ratio	Surcharge as a percent of taxable wages	Surcharge as percent of taxable wages	Surcharge as a percent of taxable wages
Less than 2.0%.....	0.20%.....	0.30%	
2.0% but less than 4.0	0.40.....	0.50	
4.0 but less than 6.0.....	0.60.....	0.70	
6.0 but less than 8.0.....	0.80.....	0.90	
8.0 but less than 10.0.....	1.00.....	1.10	
10.0 but less than 12.0.....	1.20.....	1.30	
12.0 but less than 14.0.....	1.40.....	1.50	
14.0 but less than 16.0.....	1.60.....	1.70	
16.0 but less than 18.0.....	1.80.....	1.90	
18.0 but less than 20.0.....	2.00.....	2.10	
20.0 but less than 22.0.....	2.00.....	2.20	
22.0 but less than 24.0.....	2.00.....	2.40	

24.0 but less than 26.0.....	2.00.....	2.60
26.0 but less than 28.0.....	2.00.....	2.80
28.0 but less than 30.0.....	2.00.....	3.00
30.0 but less than 32.0.....	2.00.....	3.20
32.0 but less than 34.0.....	2.00.....	3.40
34.0 but less than 36.0.....	2.00.....	3.60
36.0 but less than 38.0.....	2.00.....	3.80
38.0 and over.....	2.00.....	4.00";

On page 70, in line 41, after "for" by inserting "those employers with 50 or more employees and for";

On page 71, after line 2, by inserting:

"Sec. 8. K.S.A. 2010 Supp. 44-712 is hereby amended to read as follows: 44-712. (a) *Establishment and control.* There is hereby established as a special fund in the state treasury, separate and apart from all public moneys or funds of this state, an employment security fund, which shall be administered by the secretary as provided in this act. This fund shall consist of: (1) All contributions collected under this act; (2) interest earned upon any moneys in the fund; (3) all moneys credited to this state's account in the federal unemployment trust fund, pursuant to section 903 of the social security act, 42 U.S.C.A. § 1103, as amended; (4) any property or securities acquired through the use of moneys belonging to the fund, and all other moneys received for the fund from any other source; (5) all earnings of such property or securities. All moneys in this fund shall be mingled and undivided.

(b) *Accounts and deposits.* The state treasurer shall be ex officio custodian of the fund. Payments from the fund, and for the purposes of this act deposits with the secretary of the treasury of the United States shall not be deemed to be payments from the fund, shall be made by any commercially-accepted means approved by the secretary. There shall be maintained within the fund three separate accounts: (1) A clearing account; (2) an unemployment trust fund account, and (3) a

benefit account. All money payable to the fund upon receipt thereof by the secretary, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the clearing account of the fund. Refunds payable pursuant to K.S.A. 44-717, and amendments thereto, may be paid from the clearing account of the fund by any commercially-accepted means approved by the secretary. After clearance thereof, all other moneys in the clearing account of the fund shall be immediately deposited with the secretary of the treasury of the United States of America to the credit of the account of this state in the federal unemployment trust fund established and maintained pursuant to section 904 of the social security act, 42 U.S.C.A. § 1104, as amended, any provisions of law in this state relating to the deposit, administration, release, or disbursement of moneys in the possession or custody of this state to the contrary notwithstanding. The benefit account of the fund shall consist of all moneys requisitioned from this state's account in the federal unemployment trust fund. Except as herein otherwise provided, moneys in the clearing and benefit accounts of the fund may be deposited by the state treasurer in any bank or public depository as is now provided by law for the deposit of general funds of the state, but no public deposit insurance charge or premium shall be paid out of the fund. Moneys in the clearing and benefit accounts of the fund shall not be commingled with other state funds and shall be maintained in separate bank accounts.

(c) *Withdrawals.* Moneys shall be requisitioned from this state's account in the federal unemployment trust fund solely for the payment of benefits and in accordance with the provisions of this act and the rules and regulations adopted by the secretary, except that moneys credited to this state's account pursuant to section 903 of the social security act, 42 U.S.C.A. § 1103, as amended, shall be used exclusively as provided in subsection (d) of this section. The secretary shall from time to time requisition from the federal unemployment trust fund such amounts, not exceeding the amounts standing to its account therein, as deemed necessary for the payment of benefits for a reasonable future

period. Upon receipt thereof the state treasurer shall deposit such moneys in the benefit account of the fund and payments of benefits shall be charged solely against such benefit account of the fund. Expenditures of such moneys in the benefit account and refunds from the clearing account of the fund shall not be subject to any provisions of law requiring specific appropriations. Any balance of moneys requisitioned from the federal unemployment trust fund which remains unclaimed or unpaid in the benefit account of the fund after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of benefits during succeeding periods, or, in the discretion of the secretary shall be directed to be redeposited with the secretary of the treasury of the United States of America, to the credit of this state's account in the federal unemployment trust fund, as provided in subsection (b) of this section. All balances accrued from unpaid or canceled warrants issued pursuant to this section, notwithstanding the provisions of K.S.A. 10-812, and amendments thereto, shall remain in the benefit account of the fund, and be disbursed in accordance with the provisions of this act relating to such account.

(d) *Administrative use.* (1) Money credited to the account of this state in the federal unemployment trust fund by the secretary of the treasury of the United States of America, pursuant to section 903 of the social security act, 42 U.S.C.A. § 1103, as amended, may be requisitioned and used for the payment of expenses incurred in the administration of this act pursuant to a specific appropriation by the legislature, if expenses are incurred and the money is requisitioned after the enactment of an appropriation law which: (A) Specifies the purposes for which such money is appropriated and the amounts appropriated therefor, (B) limits the period within which such money may be obligated to a period ending not more than two years after the date of the enactment of the appropriation law, and (C) limits the amount which may be obligated during a twelve-month period beginning on July 1 and ending on the next June 30 to an amount which does not exceed the amount by which (i) the aggregate of the amounts credited to the account of this state pursuant to section 903 of

the social security act, 42 U.S.C.A. § 1103, as amended, (ii) the aggregate of the amounts obligated pursuant to this subsection and amounts paid out for benefits and charged against the amounts credited to the account of this state. For the purposes of this subsection, amounts obligated during any such twelve-month period shall be charged against equivalent amounts which were first credited and which are not already so charged.

(2) Money credited to the account of this state pursuant to section 903 of the social security act, 42 U.S.C.A. § 1103, as amended, may not be withdrawn or obligated except for the payment of benefits and for the payment of expenses for the administration of this act and of public employment offices pursuant to this subsection (d).

(3) Money appropriated as provided by this subsection (d) for the payment of expenses of administration shall be requisitioned as needed for the payment of obligations incurred under such appropriation and, upon requisition shall be deposited in the state treasury to the credit of the employment security administration fund from which such payments shall be made. Money so deposited and credited shall, until expended, remain a part of the federal unemployment trust fund, and, if it will not be expended, shall be returned promptly to the account of this state in the federal unemployment trust fund.

(4) Notwithstanding paragraph (1), money credited with respect to federal fiscal years 1999, 2000 and 2001, shall be used solely for the administration of the UC program, and such money shall not otherwise be subject to the requirements of paragraph (1) when appropriated by the legislature.

(e) *Management of funds upon discontinuance of federal unemployment trust fund.* The provisions of subsections (a), (b), (c) and (d) of this section, to the extent that they relate to the federal unemployment trust fund, shall be operative only so long as such unemployment trust fund continues to exist and so long as the secretary of the treasury of the United States of America continues to maintain for this state a separate book account of all funds deposited therein by this state for benefit purposes,

together with this state's proportionate share of the earnings of such unemployment trust fund, from which no other state is permitted to make withdrawals. If and when such unemployment trust fund ceases to exist, or such separate book account is no longer maintained, all moneys, properties or securities therein, belonging to the employment security fund of this state, shall be transferred to the state treasurer, to be administered by the secretary as a trust fund for the purpose of paying benefits under this act, and the director of investments upon the direction of the secretary shall have authority to hold, invest, transfer, sell, deposit, and release such moneys, and any properties, securities, or earnings acquired as an incident to such administration.

(f) Loans from the pooled money investment board, when authorized. (1) Pursuant to K.S.A. 2010 Supp. 75-4209(d), and amendments thereto, the pooled money investment board is hereby authorized and directed to make loans as requested by the secretary of labor to fund debt obligations to the federal government as may have been, or continue to be, incurred by the employment security fund.

(A) The line of credit so extended shall be at an interest rate not to exceed 2%; and

(B) shall remain in effect for a period of three years from the date of the first loan requested.

The pooled money investment board may reauthorize this line of credit following the initial three year period if deemed mutually beneficial by the board and the secretary of labor.

(2) The secretary of labor is hereby authorized to request and receive loans from the pooled money investment fund for the purposes described herein.

(3) The outstanding balances of such loans in the aggregate shall not exceed the limit imposed by K.S.A. 2010 Supp. 75-4209(d), and amendments thereto.

(4) Any such loan shall not be deemed to be an indebtedness or debt of the state of Kansas within the meaning of section 6 of article 11 of the constitution of the state of Kansas.

(5) The pooled money investment board, secretary of labor, and state treasurer shall coordinate as needed to make the appropriate transfers and payment of moneys anticipated hereunder.

Sec. 9. K.S.A. 2010 Supp. 44-718 is hereby amended to read as follows: 44-718. (a) *Waiver of rights void.* No agreement by an individual to waive, release or commute such individual's rights to benefits or any other rights under this act shall be valid. No agreement by any individual in the employ of any person or concern to pay all or any portion of an employer's contribution or payments in lieu of contributions required under this act from such employer, shall be valid. No employer shall directly or indirectly make or require or accept any deduction from remuneration to finance the employer's contributions required from such employer, or require or accept any waiver of any right hereunder by any individual in such employer's employ. Any employer or officer or agent of an employer who violates any provision of this subsection shall, for each offense, be fined not less than \$100 nor more than \$1,000 or be imprisoned for not more than six months, or both.

(b) *Limitation of fees.* No individual claiming benefits shall be charged fees of any kind in any proceeding under this act by the secretary of labor or representatives of the secretary or by any court or any officer thereof. Any individual claiming benefits in any proceeding before the secretary of labor or a court may be represented by counsel or other duly authorized agent, but no such counsel or agents shall either charge or receive for such services more than an amount approved by the secretary of labor. Any person who violates any provision of this subsection shall, for each such offense, be fined not less than \$50 nor more than \$500, or imprisoned for not more than six months, or both.

(c) *No assignment of benefits; exemptions.* No assignment, pledge or encumbrance of any right to benefits which are or may become due or payable under this act shall be valid; and such rights to benefits shall be exempt from levy, except in accordance with section 6331 of the federal internal revenue code of 1986, and shall be exempt from, execution, attachment, or any other remedy whatsoever provided for the collection of debt; and benefits received by an individual, so long as they are not mingled with other funds of the recipient, shall be exempt from any remedy whatsoever for the collection of all debts except debts incurred for necessities furnished to such individual or such

individual's spouse or dependents during the time when such individual was unemployed. No waiver of any exemption provided for in this subsection shall be valid.

(d) *Support exception.*(1) An individual filing a new claim for unemployment compensation shall, at the time of filing such claim, disclose whether or not the individual owes support obligations as defined under paragraph (7). If any such individual discloses that such individual owes support obligations, and is determined to be eligible for unemployment compensation, the secretary shall notify the state or local support enforcement agency enforcing such obligation that the individual has been determined to be eligible for unemployment compensation.

(2) The secretary shall deduct and withhold from any unemployment compensation payable to an individual that owes support obligations as defined under paragraph (7):

(A) The amount specified by the individual to the secretary to be deducted and withheld under this subsection, if neither (B) nor (C) is applicable; or

(B) the amount, if any, determined pursuant to an agreement submitted to the secretary under section 454(20)(B)(i) of the social security act by the state or local support enforcement agency, unless subparagraph (C) is applicable; or

(C) any amount otherwise required to be so deducted and withheld from such unemployment compensation pursuant to legal process (as that term is defined in section 459(i)(5) of the social security act) properly served upon the secretary.

(3) Any amount deducted and withheld under paragraph (2) shall be paid by the secretary to the appropriate state or local support enforcement agency.

(4) Any amount deducted and withheld under paragraph (2) shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by such individual to the state or local support enforcement agency in satisfaction of the individual's support obligations.

(5) For purposes of paragraphs (1) through (4), "unemployment compensation" means any

compensation payable under the employment security law after application of the recoupment provisions of subsection (d) of K.S.A. 44-719, and amendments thereto, (including amounts payable by the secretary pursuant to an agreement under any federal law providing for compensation, assistance or allowances with respect to unemployment).

(6) This subsection applies only if appropriate arrangements have been made for reimbursement by the state or local support enforcement agency for the administrative costs incurred by the secretary under this section which are attributable to support obligations being enforced by the state or local support enforcement agency.

(7) For the purposes of this subsection, "support obligations" means only those obligations which are being enforced pursuant to a plan described in section 454 of the federal social security act which has been approved by the secretary of health and human services under part D of title IV of the federal social security act.

(8) For the purposes of this subsection, "state or local support enforcement agency" means any agency of this state or a political subdivision thereof operating pursuant to a plan described in paragraph (7).

(e) (1) An individual filing a new claim for unemployment compensation shall, at the time of filing such claim, be advised that:

(A) Unemployment compensation is subject to federal, state and local income tax;

(B) requirements exist pertaining to estimated tax payments;

(C) the individual may elect to have federal income tax deducted and withheld from the individual's payment of unemployment compensation at the amount specified in the federal internal revenue code;

(D) the individual may elect to have state income tax deducted and withheld at the rate of 3.5% from the individual's payment of unemployment compensation; and

~~(D)~~(E) the individual shall be permitted to change a previously elected withholding status.

(2) Amounts deducted and withheld from unemployment compensation shall remain in the unemployment fund until transferred to the federal or state taxing authority as a payment of income tax.

(3) The secretary shall follow all procedures specified by the United States department of labor and the federal internal revenue service pertaining to the deducting and withholding of income tax.

(4) Amounts shall be deducted and withheld under this section only after amounts are deducted and withheld for any overpayments of unemployment compensation, child support obligations, food stamp overissuances or any other amounts required to be deducted and withheld under this act.

(f) (1) An individual filing a new claim for unemployment compensation at the time of filing such claim, shall disclose whether or not such individual owes an uncollected overissuance (as defined in section 13(c)(1) of the Food Stamp Act of 1977) of food stamp coupons. The secretary shall notify the state food stamp agency enforcing such obligation of any individual who discloses that such individual owes an uncollected overissuance of food stamps and who is determined to be eligible for unemployment compensation.

(2) The secretary shall deduct and withhold from any unemployment compensation payable to an individual who owes an uncollected overissuance:

(A) The amount specified by the individual to the secretary to be deducted and withheld under this clause;

(B) the amount (if any) determined pursuant to an agreement submitted to the state food stamp agency under section 13(c)(3)(A) of the Food Stamp Act of 1977; or

(C) any amount otherwise required to be deducted and withheld from unemployment compensation pursuant to section 13(c)(3)(B) of such act.

(3) Any amount deducted and withheld under this section shall be paid by the secretary to the appropriate state food stamp agency.

(4) Any amount deducted and withheld under subsection (b) shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by such individual to the state food stamp agency as repayment of the individual's uncollected overissuance.

(5) For purposes of this section, the term "unemployment compensation" means any compensation payable under this act including amounts payable by the secretary pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment.

(6) This section applies only if arrangements have been made for reimbursement by the state food stamp agency for the administrative costs incurred by the secretary under this section which are attributable to the repayment of uncollected overissuances to the state food stamp agency.";

And by renumbering sections accordingly;

Also on page 71, in line 4, by striking "and 44-717" and inserting ", 44-712, 44-717 and 44-718";

On page 1, in the title, in line 3 following the semicolon, where it appears for the second time by inserting "allowing withholding of taxes from unemployment compensation;"; in line 4, by striking "and", in line 5, by striking "44-717" and inserting ", 44-712, 44-717 and 44-718"

_____ District.