



Agency Legislative Proposal - 2018 Session

Document Name (e.g. OPM1015Budget.doc; OTG1015Policy.doc): [Click here to enter text.](#)

112017_DOL_AdminSurcharge

(If submitting electronically, please label with date, agency, and title of proposal – 092611_SDE_TechRevisions)

State Agency: Department of Labor

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Lead agency division requesting this proposal: Exec Admin

Agency Analyst/Drafter of Proposal: Heidi Lane

Title of Proposal: AAC Unemployment Insurance Administrative Stabilization Surcharge

Statutory Reference: 312-225a(e)(2)(C)

Proposal Summary:

To implement a surcharge to assist with the administration of Chapter 567 of the general statutes.

PROPOSAL BACKGROUND

◇ **Reason for Proposal**

Please consider the following, if applicable:

- (1) Have there been changes in federal/state/local laws and regulations that make this legislation necessary? **No**
- (2) Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)? **Yes, each state that has implemented such a surcharge has been able to perform its administrative duties under the Unemployment Compensation Act**
- (3) Have certain constituencies called for this action? **No**
- (4) What would happen if this was not enacted in law this session? **Steep declines in federal funding coupled with our salary rates and fringe benefit rates (highest in the country) make it impossible to sustain mission critical operations. The CTDOL proposes an administrative surcharge to augment the federal funding it receives from the USDOL to run its programs (Employment Security Division; UI, Employment Services (ES), WIOA, Wagner- Peyser).**

◇ **Origin of Proposal**

New Proposal

Resubmission



If this is a resubmission, please share:

- (1) What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?
- (2) Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?
- (3) Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?
- (4) What was the last action taken during the past legislative session?

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PROPOSAL IMPACT

◇ **AGENCIES AFFECTED** (please list for each affected agency)

Agency Name: None

Agency Contact (name, title, phone): Click here to enter text.

Date Contacted: Click here to enter text.

Approve of Proposal **YES** **NO** **Talks Ongoing**

Summary of Affected Agency's Comments

Click here to enter text.

Will there need to be further negotiation? **YES** **NO**

◇ **FISCAL IMPACT** (please include the proposal section that causes the fiscal impact and the anticipated impact)

Municipal (please include any municipal mandate that can be found within legislation)

Generally not impacted because they are not taxable employers.

State

Generally not impacted because it is not a taxable employer.

Federal

Generally not impacted because it is not a taxable employer.

Additional notes on fiscal impact



◇ **POLICY and PROGRAMMATIC IMPACTS** *(Please specify the proposal section associated with the impact)*

The implementation of an administrative surcharge would assist the CT DOL with the administration of various UI functions found within Chapter 567 of the general statutes, such as UI Administration, ES administration, training and workforce development.

Insert fully drafted bill here

Sec. 31-225a. Definitions; employers' experience accounts; noncharging provisions; benefit ratio; rates of contribution; assessments to pay interest due on federal loans and to reimburse advance fund; fund balance tax rate; notice to employers; multiple employers; employers' quarterly reports; inspection of records; electronic payments.

(a) As used in this chapter, "qualified employer" means each employer subject to this chapter whose experience record has been chargeable with benefits for at least one full experience year, with the exception of employers subject to a flat entry rate of contributions as provided under subsection (d) of this section, employers subject to the maximum contribution rate under subsection (c) of section 31-273, and reimbursing employers; "contributing employer" means an employer who is assigned a percentage rate of contribution under the provisions of this section; "reimbursing employer" means an employer liable for payments in lieu of contributions as provided under section 31-225; "benefit charges" means the amount of benefit payments charged to an employer's experience account under this section; "computation date" means June thirtieth of the year preceding the tax year for which the contribution rates are computed; "tax year" means the calendar year immediately following the computation date; "experience year" means the twelve consecutive months ending on June thirtieth; and "experience period" means the three consecutive experience years ending on the computation date, except that if the employer's account has been chargeable with benefits for less than three years, the experience period shall consist of the greater of one or two consecutive experience years ending on the computation date.

(b) (1) The administrator shall maintain for each employer, except reimbursing employers, an experience account in accordance with the provisions of this section. (2) With respect to each benefit year commencing on or after July 1, 1978, regular and additional benefits paid to an individual shall be allocated and charged to the accounts of the employers who paid the individual wages in his or her base period in accordance with the following provisions: The initial determination establishing a claimant's weekly benefit rate and maximum total benefits for his or her benefit year shall include, with respect to such claimant and such benefit year, a determination of the maximum liability for such benefits of each employer who paid wages to the claimant in his or her base period. An



employer's maximum total liability for such benefits with respect to a claimant's benefit year shall bear the same ratio to the maximum total benefits payable to the claimant as the total wages paid by the employer to the claimant within his or her base period bears to the total wages paid by all employers to the claimant within his or her base period. This ratio shall also be applied to each benefit payment. The amount thus determined, rounded to the nearest dollar with fractions of a dollar of exactly fifty cents rounded upward, shall be charged to the employer's account.

(c) (1) (A) Any week for which the employer has compensated the claimant in the form of wages in lieu of notice, dismissal payments or any similar payment for loss of wages shall be considered a week of employment for the purpose of determining employer chargeability. (B) No benefits shall be charged to any employer who paid wages of five hundred dollars or less to the claimant in his or her base period. (C) No dependency allowance paid to a claimant shall be charged to any employer. (D) In the event of a natural disaster declared by the President of the United States, no benefits paid on the basis of total or partial unemployment which is the result of physical damage to a place of employment caused by severe weather conditions including, but not limited to, hurricanes, snow storms, ice storms or flooding, or fire except where caused by the employer, shall be charged to any employer. (E) If the administrator finds that (i) an individual's most recent separation from a base period employer occurred under conditions which would result in disqualification by reason of subdivision (2), (6) or (9) of subsection (a) of section 31-236, or (ii) an individual was discharged for violating an employer's drug testing policy, provided the policy has been adopted and applied consistent with sections 31-51t to 31-51aa, inclusive, section 14-261b and any applicable federal law, no benefits paid thereafter to such individual with respect to any week of unemployment which is based upon wages paid by such employer with respect to employment prior to such separation shall be charged to such employer's account, provided such employer shall have filed a notice with the administrator within the time allowed for appeal in section 31-241. (F) No base period employer's account shall be charged with respect to benefits paid to a claimant if such employer continues to employ such claimant at the time the employer's account would otherwise have been charged to the same extent that he or she employed him or her during the individual's base period, provided the employer shall notify the administrator within the time allowed for appeal in section 31-241. (G) If a claimant has failed to accept suitable employment under the provisions of subdivision (1) of subsection (a) of section 31-236 and the disqualification has been imposed, the account of the employer who makes an offer of employment to a claimant who was a former employee shall not be charged with any benefit payments made to such claimant after such initial offer of reemployment until such time as such claimant resumes employment with such employer, provided such employer shall make application therefor in a form acceptable to the administrator. The administrator shall notify such



employer whether or not his or her application is granted. Any decision of the administrator denying suspension of charges as herein provided may be appealed within the time allowed for appeal in section 31-241. (H) Fifty per cent of benefits paid to a claimant under the federal-state extended duration unemployment benefits program established by the federal Employment Security Act shall be charged to the experience accounts of the claimant's base period employers in the same manner as the regular benefits paid for such benefit year. (I) No base period employer's account shall be charged with respect to benefits paid to a claimant who voluntarily left suitable work with such employer (i) to care for a seriously ill spouse, parent or child or (ii) due to the discontinuance of the transportation used by the claimant to get to and from work, as provided in subparagraphs (A)(ii) and (A)(iii) of subdivision (2) of subsection (a) of section 31-236. (J) No base period employer's account shall be charged with respect to benefits paid to a claimant who has been discharged or suspended because the claimant has been disqualified from performing the work for which he or she was hired due to the loss of such claimant's operator license as a result of a drug or alcohol test or testing program conducted in accordance with section 14-44k, 14-227a or 14-227b while the claimant was off duty.

(2) All benefits paid which are not charged to any employer shall be pooled.

(3) The noncharging provisions of this chapter, except subdivisions (1)(D) and (1)(F) of this subsection, shall not apply to reimbursing employers.

(d) The standard rate of contributions shall be five and four-tenths per cent. Each employer who has not been chargeable with benefits, for a sufficient period of time to have his or her rate computed under this section shall pay contributions at a rate that is the higher of (1) one per cent, or (2) the state's five-year benefit cost rate. For purposes of this subsection, the state's five-year benefit cost rate shall be computed annually on or before June thirtieth and shall be derived by dividing the total dollar amount of benefits paid to claimants under this chapter during the five consecutive calendar years immediately preceding the computation date by the five-year payroll during the same period. If the resulting quotient is not an exact multiple of one-tenth of one per cent, the five-year benefit cost rate shall be the next higher such multiple.

(e) (1) As of each June thirtieth, the administrator shall determine the charged tax rate for each qualified employer. Said rate shall be obtained by calculating a benefit ratio for each qualified employer. The employer's benefit ratio shall be the quotient obtained by dividing the total amount chargeable to the employer's experience account during the experience period by the total of his or her taxable wages during such experience period which have been reported by the employer to the administrator on or before the following September thirtieth. The resulting quotient, expressed as a per cent, shall constitute the employer's



charged tax rate. If the resulting quotient is not an exact multiple of one-tenth of one per cent, the charged rate shall be the next higher such multiple, except that if the resulting quotient is less than five-tenths of one per cent, the charged rate shall be five-tenths of one per cent and if the resulting quotient is greater than five and four-tenths per cent, the charged rate shall be five and four-tenths per cent. The employer's charged tax rate will be in accordance with the following table:

Employer's Charged Tax Rate
Table

Employer's Benefit Ratio	Employer's Charged Tax Rate
.005 or less	.5% minimum subject
.006	.6% to fund
.007	.7% solvency
.008	.8% adjustment
.009	.9%
.010	1.0%
.011	1.1%
.012	1.2%
.013	1.3%
.014	1.4%
.015	1.5%
.016	1.6%
.017	1.7%
.018	1.8%
.019	1.9%



.020	2.0%
.021	2.1%
.022	2.2%
.023	2.3%
.024	2.4%
.025	2.5%
.026	2.6%
.027	2.7%
.028	2.8%
.029	2.9%
.030	3.0%
.031	3.1%
.032	3.2%
.033	3.3%
.034	3.4%
.035	3.5%
.036	3.6%
.037	3.7%
.038	3.8%
.039	3.9%
.040	4.0%
.041	4.1%
.042	4.2%
.043	4.3%



.044	4.4%
.045	4.5%
.046	4.6%
.047	4.7%
.048	4.8%
.049	4.9%
.050	5.0%
.051	5.1%
.052	5.2%
.053	5.3%
.054 & higher	5.4% maximum subject

to fund
solvency
adjustment

(2) (A) Each contributing employer subject to this chapter shall pay an assessment to the administrator at a rate established by the administrator sufficient to pay interest due on advances from the federal unemployment account under Title XII of the Social Security Act (42 U.S. Code Sections 1321 to 1324). The administrator shall establish the necessary procedures for payment of such assessments. The amounts received by the administrator based on such assessments shall be paid over to the State Treasurer and credited to the General Fund. Any amount remaining from such assessments, after all such federal interest charges have been paid, shall be transferred to the Employment Security Administration Fund or to the Unemployment Compensation Advance Fund established under section 31-264a, (i) to the extent that any federal interest charges have been paid from the Unemployment Compensation Advance Fund, (ii) to the extent that the administrator determines that reimbursement is appropriate, or (iii) otherwise to the extent that reimbursement of the advance fund is the appropriate accounting principle governing the use of the assessments. Sections 31-265 to 31-274, inclusive, shall apply to the collection of such assessments.



(B) On and after January 1, 1994, and conditioned upon the issuance of any revenue bonds pursuant to section 31-264b, each contributing employer shall also pay an assessment to the administrator at a rate established by the administrator sufficient to pay the interest due on advances from the Unemployment Compensation Advance Fund and reimbursements required for advances from the Unemployment Compensation Advance Fund, computed in accordance with subsection (h) of section 31-264a. The administrator shall establish the assessments as a percentage of the charged tax rate for each employer pursuant to subdivision (1) of this subsection. The administrator shall establish the necessary procedures for billing, payment and collection of the assessments. Sections 31-265 to 31-274, inclusive, shall apply to the collection of such assessments by the administrator. The payments received by the administrator based on the assessments, excluding interest and penalties on past due assessments, are hereby pledged and shall be paid over to the State Treasurer for credit to the Unemployment Compensation Advance Fund.

(C) Commencing with the first calendar quarter in 2019, each contributing employer shall pay an administrative stabilization surcharge in the amount of 0.15% of taxable wages, as defined in Section 31-222. All fees collected by the administrator under this subdivision shall be deposited in the Employment Security Administration Fund. The administrator shall establish the necessary procedures for payment of such surcharge.

(f) (1) For each calendar year commencing with calendar year 1994 but prior to calendar year 2013, the administrator shall establish a fund balance tax rate sufficient to maintain a balance in the Unemployment Compensation Trust Fund equal to eight-tenths of one per cent of the total wages paid to workers covered under this chapter by contributing employers during the year ending the last preceding June thirtieth. If the fund balance tax rate established by the administrator results in a fund balance in excess of said per cent as of December thirtieth of any year, the administrator shall, in the year next following, establish a fund balance tax rate sufficient to eliminate the fund balance in excess of said per cent. For each calendar year commencing with calendar year 2013, the administrator shall establish a fund balance tax rate sufficient to maintain a balance in the Unemployment Compensation Trust Fund that results in an average high cost multiple equal to 0.5.



Commencing with calendar year 2014 and ending with calendar year 2018, the administrator shall establish a fund balance tax rate sufficient to maintain a balance in the Unemployment Compensation Trust Fund that results in an average high cost multiple that is increased by 0.1 from the preceding calendar year. Commencing with calendar year 2019, the administrator shall establish a fund balance tax rate sufficient to maintain a balance in the Unemployment Compensation Trust Fund that results in an average high cost multiple equal to 1.0. If the fund balance tax rate established by the administrator results in a fund balance in excess of the amount prescribed in this subdivision as of December thirtieth of any year, the administrator shall, in the year next following, establish a fund balance rate sufficient to eliminate the fund balance in excess of said amount. The assessment levied by the administrator at any time (A) during a calendar year commencing on or after January 1, 1994, but prior to January 1, 1999, shall not exceed one and five-tenths per cent, (B) during a calendar year commencing on or after January 1, 1999, shall not exceed one and four-tenths per cent, and shall not be calculated to result in a fund balance in excess of eight-tenths of one per cent of such total wages, and (C) during a calendar year commencing on or after January 1, 2013, shall not exceed one and four-tenths per cent and shall not be calculated to result in a fund balance in excess of the amounts prescribed in this subdivision.

(2) The average high cost multiple shall be computed as follows: The result of the balance of the Unemployment Compensation Trust Fund on December thirtieth immediately preceding the new rate year divided by the total wages paid to workers covered under this chapter by contributing employers for the twelve months ending on the December thirtieth immediately preceding the new rate year shall be the numerator and the average of the three highest calendar benefit cost rates in (A) the last twenty years, or (B) a period including the last three recessions, whichever is longer, shall be the denominator. Benefit cost rates are computed as benefits paid including the state's share of extended benefits but excluding reimbursable benefits as a per cent of total wages in covered employment. The results rounded to the next lower one decimal place will be the average high cost multiple.

(g) Each qualified employer's contribution rate for each calendar year after 1973 shall be a percentage rate equal to the sum of his or her charged tax rate as of the June thirtieth preceding such calendar year and the fund balance tax rate as of December thirtieth preceding such calendar year.



(h) (1) With respect to each benefit year commencing on or after July 1, 1978, notice of determination of the claimant's benefit entitlement for such benefit year shall include notice of the allocation of benefit charges of the claimant's base period employers and each such employer shall be provided a copy of such notice of determination and shall be an interested party thereto. Such determination shall be final unless the claimant or any of such employers files an appeal from such decision in accordance with the provisions of section 31-241. (2) The administrator shall, not less frequently than once each calendar quarter, provide a statement of charges to each employer to whose experience record any charges have been made since the last previous such statement. Such statement shall show, with respect to each week for which benefits have been paid and charged, the name and Social Security account number of the claimant who was paid the benefit, the amount of the benefits charged for such week and the total amount charged in the quarter. (3) The statement of charges provided for in subdivision (2) of this subsection shall constitute notice to the employer that it has been determined that the benefits reported in such statement were properly payable under this chapter to the claimants for the weeks and in the amounts shown in such statements. If the employer contends that benefits have been improperly charged due to fraud or error, a written protest setting forth reasons therefor shall be filed with the administrator within sixty days of the date the quarterly statement was provided. An eligibility issue shall not be reopened on the basis of such quarterly statement if notification of such eligibility issue had previously been given to the employer under the provisions of section 31-241, and he or she failed to file a timely appeal therefrom or had the issue finally resolved against him or her. (4) The provisions of subdivisions (2) and (3) of this subsection shall not apply to combined wage claims paid under subsection (b) of section 31-255. For such combined wage claims paid under the unemployment law of other states, the administrator shall, each calendar quarter, provide a statement of charges to each employer whose experience record has been charged since the previous such statement. Such statement shall show the name and Social Security number of the claimant who was paid the benefits and the total amount of the benefits charged in the quarter.

(i) (1) At the written request of any employer which holds at least eighty per cent controlling interest in another employer or employers, the administrator may mingle the experience rating records of such dominant and controlled employers as if they constituted a single employer, subject to such regulations as the administrator may make and publish concerning the establishment, conduct and dissolution of such joint experience rating records. (2) The executors, administrators, successors or assigns of any former employer shall acquire the experience rating records of the predecessor employer with the following exception: The experience of a predecessor employer, who leased premises and equipment from a third party and who has not transferred any assets to the successor, shall not be



transferred if there is no common controlling interest in the predecessor and successor entities. (3) The administrator is authorized to establish such regulations governing joint accounts as may be necessary to comply with the requirements of the federal Unemployment Tax Act.

(j) (1) Each employer subject to this chapter shall submit quarterly, on forms supplied by the administrator, a listing of wage information, including the name of each employee receiving wages in employment subject to this chapter, such employee's Social Security account number and the amount of wages paid to such employee during such calendar quarter.

(2) Commencing with the first calendar quarter of 2014, each employer subject to this chapter who reports wages for employees receiving wages in employment subject to this chapter, and each person or organization that, as an agent, reports wages for employees receiving wages in employment subject to this chapter on behalf of one or more employers subject to this chapter shall submit quarterly the information required by subdivision (1) of this subsection on magnetic tape, diskette, or other similar electronic means which the administrator may prescribe, in a format prescribed by the administrator, unless such employer or agent receives a waiver pursuant to subdivision (5) of this subsection.

(3) Any employer that fails to submit the information required by subdivision (1) of this subsection in a timely manner, as determined by the administrator, shall be liable to the administrator for a late filing fee of twenty-five dollars. Any employer that fails to submit the information required by subdivision (1) of this subsection under a proper state unemployment compensation registration number shall be liable to the administrator for a fee of twenty-five dollars. All fees collected by the administrator under this subdivision shall be deposited in the Employment Security Administration Fund.

(4) Commencing with the first calendar quarter of 2014, each employer subject to this chapter who makes contributions or payments in lieu of contributions for employees receiving wages in employment subject to this chapter, and each person or organization that, as an agent, makes contributions or payments in lieu of contributions for employees receiving wages in employment subject to this chapter on behalf of one or more employers subject to this chapter shall make such contributions or payments in lieu of contributions electronically.

(5) Any employer or any person or organization that, as an agent, submits information pursuant to subdivision (2) of this subsection or makes contributions or payments in lieu of contributions pursuant to subdivision (4) of this subsection may request in writing, not later than thirty days prior to the date a submission of information or a contribution or payment



in lieu of contribution is due, that the administrator waive the requirement that such submission or contribution or payment in lieu of contribution be made electronically. The administrator shall grant such request if, on the basis of information provided by such employer or person or organization and on a form prescribed by the administrator, the administrator finds that there would be undue hardship for such employer or person or organization. The administrator shall promptly inform such employer or person or organization of the granting or rejection of the requested waiver. The decision of the administrator shall be final and not subject to further review or appeal. Such waiver shall be effective for twelve months from the date such waiver is granted.

(k) The employer may inspect his or her account records in the office of the Employment Security Division at any reasonable time.