



**House Committee on Commerce, Labor and Economic Development
Testimony from the Employer Community on Unemployment Insurance**

Presented by:

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Tuesday, January 26, 2021

Mister Chairman and members of the committee, my name is Eric Stafford, Vice President of Government Affairs for the Kansas Chamber. The Kansas Chamber represents small, medium and large businesses of all industry segments across the state. We are submitting joint testimony along with our partners from NFIB. NFIB Kansas is the leading small business organization in Kansas representing small and independent businesses. A non-profit, nonpartisan organization founded in 1943, NFIB Kansas represents the consensus views of its almost 4,000 members in Kansas.

We appreciate the opportunity to testify from the employer community's perspective on the state's unemployment insurance system. We will be providing a general overview on UI because it is important for this committee to fully understand how it works for both employers and employees.

UI Structure

The Unemployment Insurance system was established in the mid-1930's to help individuals supplement the loss of income, in between jobs, when they have lost their job by no fault of their own. Each state manages their own UI system in a partnership with the federal government and sets their own eligibility and benefit structure. Generally, if an individual quits or is fired for cause, they are not eligible for benefits. The UI system is funded through federal dollars (used to fund operating costs of the agency) and employer taxes to fund benefits. Benefits are 100% paid for and supported by employers.

Employers are taxed based on the company's historical use of the trust fund. The "reserve ratio" is calculated looking at the amount of taxes paid into the fund versus how much in benefits has been paid out over the entire history of the company. This determines where in the 27 positive rate groups, or negative rate groups, an employer falls. If a company has paid out more in benefits than they have in taxes, they will be a negative balance employer.

If you think about UI taxes like car insurance, an employer that uses the system less (fewer driving accidents) should theoretically have lower premiums than someone who uses the UI system more frequently (multiple accidents on their record). However, pre-2015 that wasn't necessarily the case. Employers who never utilized the system were disproportionately paying to help restore the health of the trust fund because negative balance employers just accepted the fact that this is a cost of doing business and were paying a fixed annual cost in UI taxes. They were maxed out.

Thanks to support from the Kansas Legislature, you all passed significant reforms in 2013 and 2015 to the unemployment insurance system. Those reforms focused on the integrity/eligibility of individuals, as well as the tax structure of the system for employers to restore parity and rate fairness to the UI system. A summary of those changes is below:

2013- HB 2105

- Severance pay
- Holiday pay
- Phased-In increase in the taxable wage base
- Lowered high cost multiple
- DOL notice must be sent by November 30
- Reduced new employer rate from 4% to 2.7%
- Benefit duration coincide with state unemployment rate

2015- HB 154

- Switch from “arrayed” to “fixed” system
- Cut number of positive rate groups from 54 rate groups to 27 (11 negative rate groups)
- Tax credits and tax increases built into statute- all dependent upon health of UI trust fund
- Maximum benefit amount of 55% of state average weekly wage instead of 60%

Resistance to the 2015 changes mostly came from KDOL staff due to concerns that this structural change would not raise enough money for the trust fund. Their scrutiny of our work was frankly appreciated. Our experts compiled years of historical, anonymous data from KDOL to determine the proper statutory thresholds for employer contributions. Our projections turned out to be right on track, and we saw a trust fund with a balance of \$1.2 billion in January 2020. And then the pandemic hit.

Last year, we were starting to get questions from legislators about possible tax cuts to the UI system because our trust fund had grown to more than \$1 billion, money that was not being spent in the Kansas economy. We cautioned against cuts or moratoriums, as we had learned our lessons with those types of changes prior to the 2008-2009 recession.

We fully believe in the tax structure of our system to protect the adequacy of the fund, while not overbearing employers with excessive tax rates.

Top Concerns Over the Past Year

This pandemic has not hit all industries equally. The restaurant and hospitality industry, entertainment venues and sports venues, or any other large-gathering business have taken the brunt of the economic downturn of 2020. Some manufacturing companies have seen a decrease in production and employment, while others have had a record year. The results of the Chamber’s annual CEO poll conducted in December shows mixed feelings as well. 28% of respondents said they expect to increase their workforce in 2021 which is a positive sign, only 5% expect to reduce staff. However, NFIB’s December 2020 small business optimism survey saw a historic drop due to the outlook of sales and business conditions in 2021. Just last week here in Kansas, we saw a record 69,000 initial UI claims, a trend in the wrong direction.

There are two major concerns from employers over the last year- 1) It has been difficult getting employees to return to work, largely driven by the \$600 per week additional federal benefits made available to unemployed individuals included in the CARES Act; and 2) the level of fraud taking place in Kansas, which other speakers will discuss in more detail. We are still receiving reports of fraud being filed under the names of employees of member companies. Our members have told us several times that their employees who are victims of identity theft blame employers for not protecting their personal information, so a lot of time is spent by HR departments educating employees on what has happened and that the employer was not the source of the data breach. However, no one is certain where the data breach started, but we do know for employers operating in multiple states that Kansas is by far experiencing more continued fraud attempts than other states.

Where do we go from here?

As the trust fund has drawn down to the current level of approximately \$300 million and will likely go negative based on current trends in the near future, employers will bear the burden to replenish the fund to a solvent level. UI tax increases are coming.

When the pandemic hit and continued through summer and fall, our HR experts began the process of crunching numbers on what the impact will be for Kansas employers, and it became clear that the burden of responsibility will not be split evenly or fairly based on historical usage of the fund (see previous example on car insurance). The top rate groups were going to experience an increase of more than 600%, while negative rated employers would only see an increase of 30% (by no means do we want to minimize a 30% increase on a business' bottom line!). We are finalizing a proposal that would place additional solvency rate tables in statute to ensure an equitable contribution to the fund while not jeopardizing the solvency of the trust fund balance.

In addition to solvency adjustment tables, we MUST as a state address IT modernization for our state department of labor. We saw the problems early on with the delay in UI payments from a system that was overwhelmed with thousands of claims. Problems exist today because of the inability for employers to electronically verify claims on their account. Everything still must be submitted through paper returns. This is inefficient and increases the chance for fraudulent claims to slip through the cracks. We would urge the Legislature to support Governor Kelly's budget proposal to spend \$37 million in CARES money on IT modernization.

In closing, we know we have some modifications to make to the UI system in the state, but we will conclude with the silver lining that the overall structure of our UI system is pretty solid thanks to the changes made by the Legislature in 2013 and 2015. We are happy to answer questions at the appropriate time.