

Proponent for Sub. HB 2196 KS Unemployment Insurance Reforms

KS Senate Commerce Committee
March 16, 2021

Testimony Provided By:

Phillip M. Hayes

Vice President

The Arnold Group (TAG)

Chairman, KS Employment Security Board of Review

Kansas Department of Labor



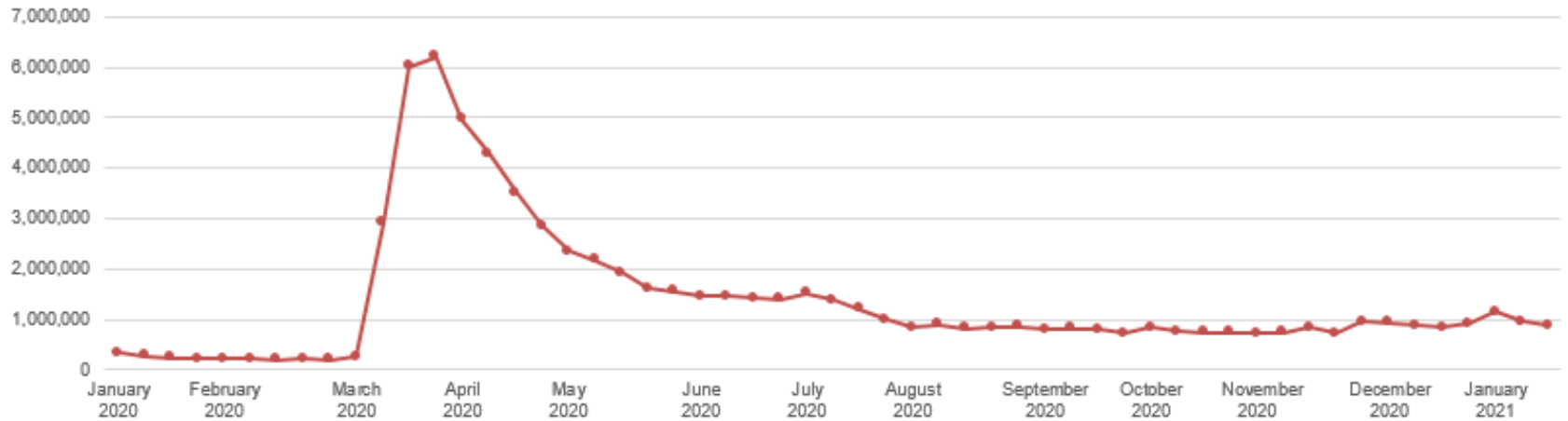
The Arnold Group
A HUMAN RESOURCE COMPANY

UI Benefits: Pre-MFA (Identity Verification) Solution

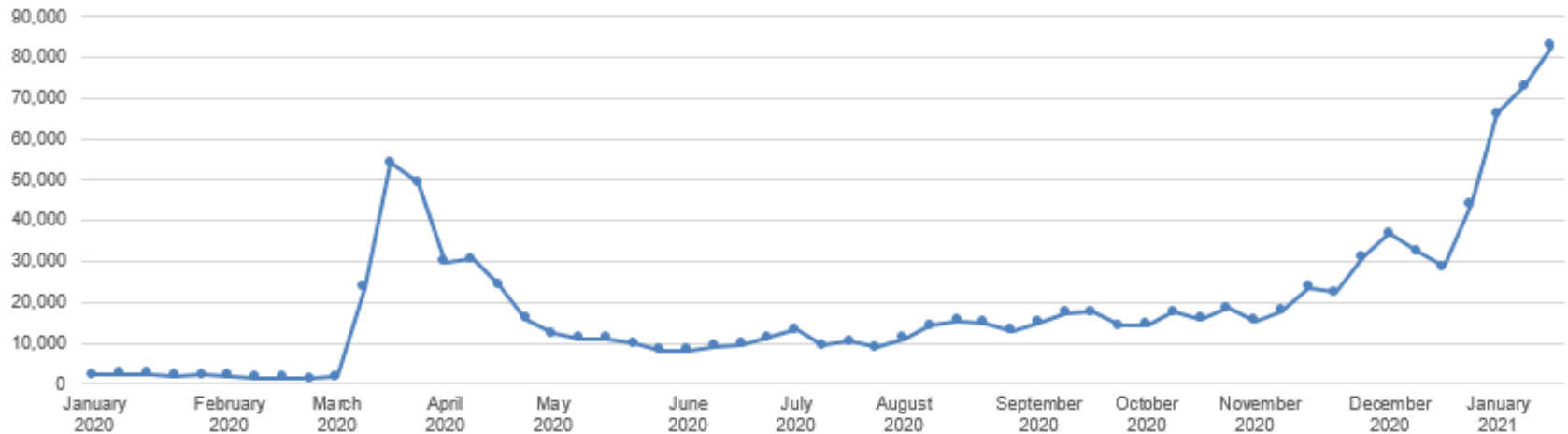
Week Ending	12/19/2020	12/26/2020	1/2/2021	1/9/2021	1/16/2021	1/23/2021	Full Totals & Averages Since WE 3/21 (45 Weeks)		Four (4) Week Average 1/2/2021 — 1/23/2021	
							Totals	Weekly Averages	4 Wk Totals	4 Wk Avg.
1 Kansas Trust Fund Balance	\$ 400,600,000	\$ 375,300,000	\$ 338,700,000	\$ 302,200,000	\$ 273,300,000	\$ 246,900,000				
2 # Weeks Trust Fund to ZERO - KS Only benefits (KS Only - UI)	13.34	12.11	9.76	7.31	6.13	7.67				
3 # Years Trust Fund to ZERO - KS Only benefits (KS Only - UI)	0.26	0.23	0.19	0.14	0.12	0.15				
4 Projected Date of KS Trust Fund Bankruptcy	3/22/2021	3/20/2021	3/11/2021	3/1/2021	2/27/2021	3/17/2021				
5 Regular Claims										
6 Initial Claims	34,624	30,074	45,743	69,404	76,513	25,489	1,086,282	24,140	217,149	54,287
7 Call Center	788	618	1,009	1,537	1,167	620	137,048	3,046	4,333	1,083
8 Internet	33,836	29,456	44,734	67,867	75,346	24,869	949,233	21,094	212,816	53,204
9 <i>Internet %</i>	<i>97.72%</i>	<i>97.95%</i>	<i>97.79%</i>	<i>97.79%</i>	<i>98.47%</i>	<i>97.57%</i>		<i>87.38%</i>	<i>87.38%</i>	<i>88.00%</i>
10 Continued Claims	83,628	85,172	92,961	103,909	102,561	75,883	3,333,059	74,068	375,314	93,829
11 Total Payments Summary	\$ 53,000,447	\$ 38,471,191	\$ 43,050,837	\$ 43,105,488	\$ 45,875,429	\$ 34,871,425	\$ 2,718,679,314	\$ 60,415,096	\$ 166,903,179	\$ 41,725,795
12 Regular Unemployment Insurance (KS Only - UI)	\$ 30,028,587	\$ 30,984,021	\$ 34,716,769	\$ 41,323,096	\$ 44,570,345	\$ 32,201,874	\$1,064,965,627	\$ 23,665,903	\$ 152,812,084	\$ 38,203,021
13 Fed Pandemic Unemployment Comp (FPUC)	\$ 1,538,982	\$ 554,292	\$ 463,431	\$ 468,465	\$ 393,411	\$ 1,842,006	\$ 1,223,599,739	\$ 30,589,993	\$ 3,167,313	\$ 791,828
14 Pandemic Unemployment Assistance (PUA)	\$ 2,823,305	\$ 1,154,186	\$ 945,198	\$ 613,613	\$ 396,788	\$ 478,256	\$ 186,754,172	\$ 5,335,833	\$ 2,433,855	\$ 608,464
15 Pandemic Emergency Unemployment Comp (PEUC)	\$ 7,059,897	\$ 5,475,620	\$ 5,065,189	\$ 522,261	\$ 355,432	\$ 260,237	\$ 113,915,565	\$ 3,350,458	\$ 6,203,119	\$ 1,550,780
16 State Extended Benefits (EB)	\$ 2,005,220	\$ 234,372	\$ 123,452	\$ 78,004	\$ 65,083	\$ 31,073	\$ 11,769,965	\$ 452,691	\$ 297,612	\$ 74,403
17 Lost Wages Assistance (LWA)	\$ 9,544,456	\$ 68,700	\$ 1,736,798	\$ 100,049	\$ 94,370	\$ 57,979	\$ 117,674,246	\$ 7,354,640	\$ 1,988,196	\$ 497,299
18 Regular Unemployment Insurance (KS Only - UI)										
19 # Weeks Compensated	72,519	73,816	81,888	96,336	103,325	74,279	2,984,184	66,315	355,828	88,957
20 Final Payments	1,187	998	980	1,119	926	776	56,482	1,255	3,801	950
21 Individuals Receiving Payments	63,256	66,142	71,525	82,089	91,377	66,883	2,588,864	57,530	311,874	77,969
22 Average Weekly Benefit Amount	\$ 414.08	\$ 419.75	\$ 423.95	\$ 428.95	\$ 431.36	\$ 433.53	\$ 16,120.12	\$ 358.22	\$ 1,717.79	\$ 429.45
23 Pandemic Unemployment Assistance (PUA)										
24 Initial Claims	5,656	3,509	2,625	6,951	7,574	5,416	206,263	7,639	22,566	5,642
25 Continued Claims	48,392	15,442	20,812	31,124	37,822	31,602	2,896,878	107,292	121,360	30,340
26 # Weeks Compensated	11,307	4,130	4,200	2,689	1,397	1,402	688,580	19,674	9,688	2,422
27 Pandemic Emergency Unemployment Comp (PEUC)										
28 Initial Claims	1,368	925	765	14	22	9	39,717	1,471	810	203
29 Continued Claims	20,341	16,168	13,874	867	766	371	316,786	11,733	15,878	3,970
30 # Weeks Compensated	21,260	16,697	14,047	1,216	995	452	328,791	12,177	16,710	4,178
31 State Extended Benefits (EB)										
32 Initial Claims	2,647	214	40	14	10	8	9,873	395	72	18
33 Continued Claims	4,808	253	158	159	158	62	24,333	973	537	134
34 # Weeks Compensated	6,572	701	270	238	199	61	39,847	1,594	768	192



Initial Unemployment Claims (National)



Initial Unemployment Claims (Kansas)



Proponents





UI Benefits: Post-MFA (Identity Verification) Solution

Week Ending	1/30/2021	2/6/2021	2/13/2021	2/20/2021	2/27/2021	3/6/2021	Full Totals & Averages Since WE 3/21 (51 Weeks)		Four (4) Week Average 2/13/2021 — 3/6/2021	
							Totals	Weekly Averages	4 Wk Totals	4 Wk Avg.
1 Kansas Trust Fund Balance	\$ 246,900,000	\$ 265,000,000	\$ 268,800,000	\$ 272,900,000	\$ 275,200,000	\$ 264,900,000				
2 # Weeks Trust Fund to ZERO - KS Only benefits (KS Only - UI)	59.86	464.71	39.94	150.53	35.65	26.62				
3 # Years Trust Fund to ZERO - KS Only benefits (KS Only - UI)	1.15	8.94	0.77	2.89	0.69	0.51				
4 Projected Date of KS Trust Fund Bankruptcy	3/25/2022	1/2/2030	11/19/2021	1/9/2024	11/3/2021	9/8/2021				
5 Regular Claims										
6 Initial Claims	16,927	4,905	6,630	3,774	3,227	2,267	1,124,012	22,039	15,898	3,975
7 Call Center	841	390	2,761	483	600	433	142,556	2,795	4,277	1,069
8 Internet	16,116	4,515	3,869	3,291	2,627	1,834	981,485	19,245	11,621	2,905
9 <i>Internet %</i>	<i>95.21%</i>	<i>92.05%</i>	<i>58.36%</i>	<i>87.20%</i>	<i>81.41%</i>	<i>80.90%</i>	<i>87.32%</i>	<i>87.32%</i>	<i>73.10%</i>	<i>73.10%</i>
10 Continued Claims	79,792	22,058	23,219	27,960	16,898	24,463	3,527,449	69,166	92,540	23,135
11 Total Payments Summary	\$ 15,210,006	\$ 1,315,738	\$ 13,377,139	\$ 14,604,395	\$ 26,193,410	\$ 24,393,968	\$ 2,813,773,970	\$ 55,172,039	\$ 78,568,912	\$ 19,642,228
12 Regular Unemployment Insurance (KS Only - UI)	\$ 4,124,778	\$ 570,254	\$ 6,729,527	\$ 1,812,958	\$ 7,720,081	\$ 9,949,817	\$ 1,095,873,042	\$ 21,487,707	\$ 26,212,383	\$ 6,553,096
13 Fed Pandemic Unemployment Comp (FPUC)	\$ 10,762,655	\$ 523,091	\$ 5,957,046	\$ 6,416,421	\$ 12,346,592	\$ 10,560,935	\$ 1,270,166,479	\$ 27,612,315	\$ 35,280,994	\$ 8,820,249
14 Pandemic Unemployment Assistance (PUA)	\$ 286,148	\$ 194,109	\$ 215,867	\$ 906,153	\$ 680,781	\$ 991,568	\$ 190,028,798	\$ 4,634,849	\$ 2,794,369	\$ 698,592
15 Pandemic Emergency Unemployment Comp (PEUC)	\$ 18,282	\$ 9,984	\$ 399,330	\$ 5,421,986	\$ 5,355,438	\$ 2,795,415	\$ 127,916,000	\$ 3,197,900	\$ 13,972,169	\$ 3,493,042
16 State Extended Benefits (EB)	\$ 1,343	\$ -	\$ 75,369	\$ 43,577	\$ 75,818	\$ 82,433	\$ 12,048,505	\$ 376,516	\$ 277,197	\$ 69,299
17 Lost Wages Assistance (LWA)	\$ 16,800	\$ 18,300	\$ -	\$ 3,300	\$ 14,700	\$ 13,800	\$ 117,741,146	\$ 5,351,870	\$ 31,800	\$ 7,950
18 Regular Unemployment Insurance (KS Only - UI)										
19 # Weeks Compensated	14,193	1,526	17,083	4,698	18,331	25,099	3,065,114	60,100	65,211	16,303
20 Final Payments	431	26	476	98	444	860	58,817	1,153	1,878	470
21 Individuals Receiving Payments	12,265	863	10,832	2,777	13,279	13,720	2,642,600	51,816	40,608	10,152
22 Average Weekly Benefit Amount	\$ 290.62	\$ 373.69	\$ 393.93	\$ 385.90	\$ 421.15	\$ 396.42	\$ 18,381.83	\$ 360.43	\$ 1,597.40	\$ 399.35
23 Pandemic Unemployment Assistance (PUA)										
24 Initial Claims	4,142	3,574	2,411	1,304	767	522	218,983	6,636	5,004	1,251
25 Continued Claims	30,057	40,546	37,919	28,218	21,833	19,070	3,074,521	93,167	107,040	26,760
26 # Weeks Compensated	455	690	837	6,458	2,232	3,643	702,895	17,144	13,170	3,293
27 Pandemic Emergency Unemployment Comp (PEUC)										
28 Initial Claims	60	145	22	81	42	26	40,093	1,215	171	43
29 Continued Claims	501	413	472	1,330	4,583	6,934	331,019	10,031	13,319	3,390
30 # Weeks Compensated	52	25	1,231	18,532	5,908	8,612	363,151	11,005	34,283	8,571
31 State Extended Benefits (EB)										
32 Initial Claims	34	42	24	8	2	26	10,009	323	60	15
33 Continued Claims	84	70	32	19	32	23	24,593	793	106	27
34 # Weeks Compensated	19	-	272	89	178	256	40,661	1,312	795	199



UI Benefits: Pre- VS. Post-MFA 4 Week Comparison

01/02/2021 – 01/23/2021:

- Average Weekly Kansas Regular UI Benefits:
 - **\$38,203,021**
- Projected Insolvency Date:
 - **03/17/21**

————— *MFA Implemented between Jan. 31 – Feb. 2, 2021* —————

02/13/21 – 03/16/2021:

- Average Weekly Kansas Regular UI Benefits:
 - **\$6,553,096**
- Projected Insolvency Date:
 - **09/08/21 (Q1 & Q2 Employer Contributions not included)**

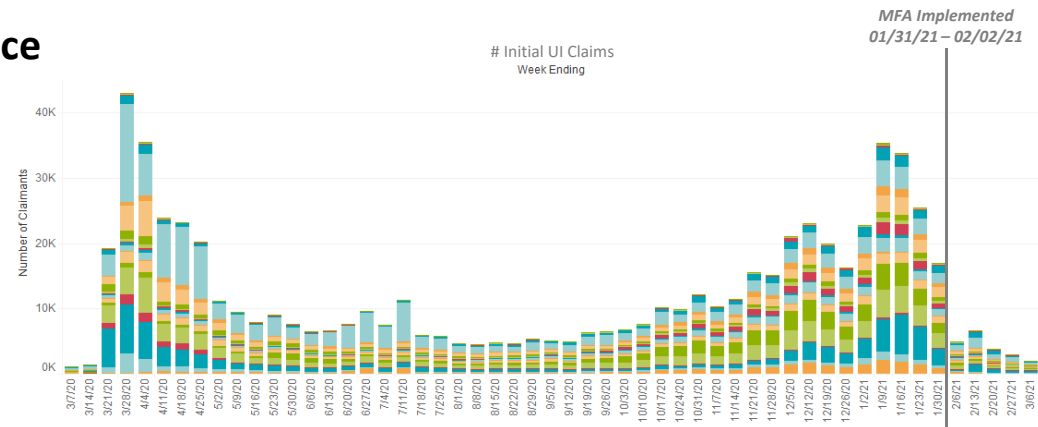
***Average Weekly Benefits
decreased 82.85% with MFA***

Estimated Fraud Summaries

U.S. DOL Improper/Fraud Payment Rate for Kansas Prior to Pandemic: **14.21%**

Regular Kansas Unemployment Insurance

- 12/29/2019 – 11/28/2020:
\$842,348,475 x 14.21% = **\$119,697,718**
- 11/29/2020 – 03/06/2021:
\$292,426,717 x 14.21% = **\$41,553,836**
- 09/27/2020 – 03/06/2021:
\$424,773,155 x 82.85% = **\$351,924,559**



Total Estimated Fraud:

- Regular Kansas UI = **\$513,176,114**
- Federal UI: \$1,717,900,928 x 14.21% = **\$244,113,722 (conservative)**

- Combined KS & Fed UI: **\$757,289,836 OR \$913,176,114 (w/ LPA \$400M Fed)**

KDOL & LPA Estimated Fraud:

- KDOL Est. = Kansas UI: **\$140M** | Federal UI: **\$150M** | **\$290M Total Estimate**
- LPA Est. = Kansas UI: **\$200M** | Federal UI: **\$400M** | **\$600M Total Estimate**

1. Unemployment Compensation Modernization Council

- Comprised of **13 members**:
 - 3 Employers | 3 Employees | 6 Kansas Legislators | 1 KDOL Member
- Primary focus includes:
 - Review/recommend technological infrastructure used to file claims and pay benefits as well as the customer experience
 - Recommend features to maximize responsiveness
 - Recommend methods for sharing data across systems related to UI compensation to maximize efficiency
 - Recommend methods for synergizing user experience across KDOL programs
- **Conduct audit of the UI system (Prelim report 5/1/22; Final report 9/1/22)**
 - Examine effects of fraudulent claims and improper payments from 3/15/20-3/31/22, and the response by KDOL to such claims
 - Examine amounts and nature of such claims, fraud processes and methods, and the potential for recovery of fraudulent payments
 - Evaluate likelihood of a data breach contributing to fraud and improper network architecture allowing a potential breach to have occurred
- **Three year sunset provision of the Council**

2. Modernization of Kansas UI System

New Technology & Platform

- Defined System Components
- Defined Features & Benefits
 - Efficient Benefit Claims & Payment Management
 - Integrated Tax Management Functionality
 - Comprehensive Appeals Filing and Tracking
 - **Automated work opportunity tax credit eligibility determination**
 - UI Program Integrity Elements/Guidance

Bottom Line

- Modern, reliable, and modifiable
- 12/31/22 Implementation deadline
- Continual development, customization, enhancements, and upgrades



*Compromised UI IT System Component Language

PROPOSED LANG: New Sec. 2. – Page 7, line 20 through 38

(c) The information technology system, technology and platform shall include, but not be limited to, ~~the following~~ **any** components, as **specified and** defined by the unemployment compensation modernization and improvement council established by section 1, and amendments thereto, in consultation with the secretary.:

- ~~(1) Component-centric architecture;~~
- ~~(2) configurability;~~
- ~~(3) results-driven customer empowerment;~~
- ~~(4) extensibility;~~
- ~~(5) reporting;~~
- ~~(6) adaptable and scalable platform;~~
- ~~(7) enterprise service bus;~~
- ~~(8) version control;~~
- ~~(9) change control;~~
- ~~(10) multi-speed information technology;~~
- ~~(11) data migration or data architecture; and~~
- ~~(12) legacy integration.~~

(d) The new system shall include, but not be limited to, the following features and benefits, as **specified and** defined by the unemployment compensation

*Compromised System Component Language (cont.)

PROPOSED Clean-up: New Sec. 2. – Page 8, line 10

(E) tax audit assignments; ~~and~~

PROPOSED Clean-up: New Sec. 2. – Page 8, line 17

(G) federal reporting; ~~and~~

*Compromised System Component Language (cont.)

PROPOSED LANG: New Sec. 2. – Page 8, lines 21-26

~~(e) The secretary shall implement and utilize all program integrity elements and guidance issued by the United States department of labor and the national association of state workforce agencies, including the integrity data hub, within 60 days of the issuance of such guidance. The secretary shall implement and utilize the following specific program integrity elements {, including, but not limited to}:~~

(e) The secretary shall implement and utilize all program integrity elements, as specified and defined by the unemployment compensation modernization and improvement council established by section 1, and amendments thereto, in consultation with the secretary including, but not limited to:

PROPOSED LANG: New Sec. 2. –

Insert the following additional, new language between Page 9, lines 7 and 8

If and when the unemployment compensation modernization and improvement council is inactive or dissolved, the secretary shall implement and utilize all new program integrity elements and guidance issued by the United States department of labor and the national association of state workforce agencies, including the integrity data hub, within 60 days of the issuance of such guidance. If such guidance is not feasible to implement within 60 days, the secretary shall notify and request from the unemployment compensation modernization and improvement council, if active, otherwise the legislative coordinating council shall be notified.

- **Re-letter/number (f) through (j) accordingly**

3. Notify Recipients of UI Benefits of Tax Liability

- Requires Secretary of Labor to inform a claimant of the federal and state tax consequences related to UI benefits on the initial determination of benefits notice
- Explanations of the following would be required:
 - KDOL income tax withholding agreement form K-BEN 233, or a successor form
 - Tax withholding elections; and
 - Tax withholding process and estimated weekly and maximum withholding amounts

4. UI Trust Fund Data Reporting

- Requires certain data related to the UI Trust Fund be published on website maintained by the Secretary
- Requires the following information to be maintained for the most recent 20 fiscal years within 120 days of FY closing:
 - Distributions of taxable wages by experience factor for each fiscal year, to include:
 - Rate group;
 - Reserve ratio lower limit;
 - Number of accounts;
 - Taxable wages; and
 - Summaries of active positive eligible, active ineligible, and active negative accounts;
 - Average high-cost benefit (AHCB) rate summary data:
 - Average high-cost benefit rate in effect, and
 - Benefit cost rate for fiscal years used for AHCB

MEMO

Date: October 15, 2019
 To: Angela Beiland, Director
 Labor Market Information Services
 From: John Cahill, Chief Information Officer
 Information Technology
 Subject: Distribution of Taxable Wages by Experience Factor for Time Fiscal Year 2019

I hereby certify these computations are correct and the data are as reported by employers subject to the provisions of the Kansas Employment Security Law.

Rate Group	Reserve Ratio (Lower Limit)	Number of Accounts	SFY 2019 Taxable Wages
1	0.18200	12,210	\$1,568,874,309
2	0.17875	1,746	\$384,850,530
3	0.17550	1,823	\$548,079,676
4	0.16445	2,315	\$657,191,668
5	0.15750	3,737	\$1,122,882,921
6	0.15055	2,775	\$1,208,996,203
7	0.14300	2,890	\$1,245,419,329
8	0.13585	3,139	\$1,343,779,754
9	0.12870	3,072	\$1,219,375,606
10	0.12155	3,170	\$1,141,615,825
11	0.11440	2,547	\$974,017,941
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			

October 15, 2019
 Angela Beiland
 Page 2

Rate Group	Reserve Ratio (Lower Limit)	Number of Accounts	SFY 2019 Taxable Wages
23	0.02000	157	\$39,889,878
24	0.02145	137	\$28,978,311
25	0.02400	128	\$27,770,760
26	0.02715	90	\$18,397,328
27	0.03000	1,050	\$70,511,406
28	-0.02744	110	\$21,544,439
29	-0.02429	95	\$11,940,044
30	-0.02144	72	\$1,628,436
31	-0.02859	71	\$16,478,030
32	-0.02574	70	\$13,487,358
33	-0.04289	49	\$11,295,628
34	-0.05004	58	\$21,871,065
35	-0.05719	50	\$8,668,874
36	-0.06434	55	\$3,877,991
37	-0.07149	42	\$3,031,206
38	-0.07864	2,506	\$47,820,179

	Number of Accounts	SFY 2019 Taxable Wages
Active Positive Eligible Accounts	15,467	\$14,736,363,883
Active Ineligible Accounts	13,216	\$688,207,273
Active Negative Accounts	3,178	\$120,884,630
Terminated and Inactive Accounts	15,752	\$22,816,468
Terminated	0	0
Inactive		
Regular Rated	13,015	\$16,423,089
Industry Rated	1,403	\$13,228,243
Negative	2,347	\$2,965,136
TOTAL	47,446	\$14,118,272,332

AB-347

A-1. Re-Employment & Work Skills Training Services

- Require secretaries of Labor and Commerce to jointly establish and implement programs providing reemployment and work skills training services to UI benefit recipients
- Require the Secretary of Labor to request a UI claimant's resume and job search plan or similar information and provide, upon request, assistance to claimants in developing such documents.
- Requires the secretaries of Labor and Commerce to jointly implement a work skills training or retraining program in collaboration with employers and other appropriate organizations, utilizing any available federal funding.
- Secretary of Labor report annually on status and progress of the reemployment services and work skills training programs to the House & Senate Commerce Committees during first month of each Legislative Session.

A-2. Federal Relief Aid & SGF Transfers

- Provides for lesser of an aggregate of \$450M or max amount available, as determined by the Dir. of the Budget, to be transferred from special revenue funds to the Employment Security Fund during FY 2021 and FY 2022
 - Transfer made up of moneys identified by Director of the Budget to be unencumbered coronavirus relief funds that may be spent at discretion of the State and provided by federal legislation enacted in response to the COVID-19 pandemic
 - In the event the full \$450M transfer of federal coronavirus relief funds to the Employment Security Fund is not made, the bill would stipulate contributing employers would pay contributions as set forth in the standard rate schedule for rate year 2022, and no solvency credit or adjustment would apply
 - In the event the full \$450M transfer of federal coronavirus relief funds to the Employment Security Fund is not made, the Director of Accounts and Reports, upon receiving the certification regarding the amount of fraudulent and improper payments, would be required to immediately transfer an amount equal to the improper payment to the UI Trust Fund from either:
 - SGF; or another fund in the State Treasury as deemed appropriate & authorized by the Governor, with approval of the SFC

A-2. Federal Relief Aid & SGF Transfers

- In event Sec. of Labor determines full amount of fraudulent & improper payments from 3/15/20 – 12/31/22, has not been transferred to the Employment Security Fund from either federal coronavirus relief funds or SGF, the Sec. then required to certify the amount of such shortfall, which would then be transferred from the SGF to the Employment Security Fund in five equal installments on or before July 15 of FY 2024 through FY 2028
 - Governor permitted to direct transfers come from different funds within the State Treasury with approval from the State Finance Council
- In the event the Secretary of Labor determines the full amount of fraudulent and improper payments from the period of 3/15/20 – 12/31/22, was less than the amount transferred from SGF to the Employment Security Fund, an amount equal to the difference between the transfer and the amount of fraudulent and improper payments would be made from the Employment Security Fund to the State General Fund and designated for use for COVID-19 related purposes, as provided by acts of the Legislature
- The bill would provide for any amount of improper payment recovered by the Secretary of Labor to be deposited in the State General Fund

A-3. Annual Projections Report – for 3 Years

- To House Commerce, Labor and Economic Development Committee
 - Actual & Projected Amount of UI Claims
 - Actual & Projected Employer Contributions
 - Actual & Projected UI Trust Fund Balance

***Amendment Consideration – lines 4-5:**

- Add the *Senate Commerce Committee*, if desired

A-4. Disqualification for Fraudulent/Misleading Statements

- Shortens the time an individual is to be disqualified from receiving benefits for fraudulent or misleading statements from five years to two years for a first occurrence
- Adds a lifetime disqualification for a second occurrence

*Amendment Consideration:

- Consider alternate DQ option based on likely U.S. DOL conformity concerns
- Proposed language provided on next slide

*Alternate DQ for Fraudulent/Misleading Statements

PROPOSED LANG {Sec. 8} – page 22, line 43 through page 23, line 18:

(g) If the individual, or another **on** such individual's behalf with the knowledge of the individual, has knowingly made a false statement or representation, or has knowingly failed to disclose a material fact to obtain or increase benefits under this act or any other unemployment compensation law administered by the secretary of labor. *The disqualification period shall begin on the first day following the last week of unemployment that the individual received benefits for, or on the date the most recent fraudulent act was committed, whichever is later, and continue for the amount of time specified based on the claimant's number of known and documented number of fraud occurrences committed against the Kansas employment security law outlined below:*

- i. **first occurrence:** *two year disqualification, and until claimant repays any resulting overpayment, penalty and interest, whichever is later; or*
- ii. **second and any future occurrence(s):** *five year disqualification, and until the claimant repays any resulting overpayment, penalty and interest, whichever is later*

In addition to the penalties set forth in K.S.A. 44-719, and amendments thereto, an individual who has knowingly made a false statement or representation or who has knowingly failed to disclose a material fact to obtain or increase benefits under this act or any other unemployment compensation law administered by the secretary of labor shall be liable for a penalty in the amount equal to 25% of the amount of benefits unlawfully received. Notwithstanding any other provision of law, such penalty shall be deposited into the employment security trust fund.

*ADDITIONAL CLEAN UP LANGUAGE:

- {Sec. 8} – Page 13, line 41 through page 22, line 42 - Include clean-up language in SB 163 page 1, line 25 through page 10, line 5
- {Sec. 8} – Page 23, line 19 through page 28, line 13 - Include clean-up language in SB 163 page, 10 line 26 through page 15, line 13

A-5. Petroleum Landman Exclusion

- Revises the Employment Security Law by excluding from the definition of “employment” contractual services performed by a petroleum landman.
 - Such services would be defined to include mineral rights management and negotiations, development of minerals, research of public and private property records, and title work.
 - For purposes of the bill, “minerals” would include oil, natural gas, or petroleum.
 - Such services would not include services performed for 501(c)(3) organizations exempt from federal income taxation.

5. Unemployment Rate Thresholds for Maximum Benefits

- Raises minimum threshold for receiving a max. of 20 weeks of UI benefits from a 3-month seasonally adjusted average unemployment rate of 4.5% to 5.0% for weeks beginning 4/1/21
 - Federal Reserve Defines Full Employment at 5.0% - 5.2%
 - Kansas – Recent UI Rates:
 - Nov. 2020: 5.1%; Revised to 5.7%
 - Dec. 2020: 3.8%; Revised to 4.7%
 - Jan. 2021 3.5%

Current Statute:

- <4.5%: 16 weeks
- 4.5% to <6%: 20 weeks
- =>6%: 26 weeks

Sub. HB 2196:

- <5%: 16 weeks
- 5% to <6%: 20 weeks
- =>6.0%: 26 weeks

A-6. Return to Work MOU Provision w/ DCF

- Requires KDOL and the Department for Children and Families (DCF) to enter into a memorandum of understanding
- Provide for the transfer of information between agencies providing that, upon notification that a UI claimant has become employed, the Secretary of Labor shall notify DCF to determine the UI claimant's eligibility for state or federal benefits provided or facilitated by DCF

A-7. Work Refusal Provisions

- Requires Secretary of Labor to develop procedures enabling employers to notify KDOL when a UI claimant refuses to return to work or refuses an offer of employment
 - Upon receipt of notification, requires Secretary to determine if the offered employment is suitable, considering wages offered are comparable to claimant's recent employment, work duties correspond to claimant's education level and work experience, and wages offered are at least amount of claimant's max weekly UI benefits
- Requires Secretary, within 10 days of receiving work refusal notification from an employer, to notify claimant who refused work information:
 - A summary of the claimant's duties to accept suitable work;
 - A statement that the claimant has been or may be disqualified from receiving benefits;
 - An explanation of what constitutes suitable work; and
 - Instructions for contesting a denial of claim based upon a report by an employer that the claimant has refused an offer of suitable work

***Amendment Consideration – Page 54, line 20**

- 10 **business** days

A-8. Employment Security Review Board / *Temporary Expansion*

- Temporarily double the Employment Security Review Board
- Effective date of bill to June 30, 2024
- Currently composed of three members, will consist of six members
 - No more than four of the members belonging to the same political party rather than two as in current law
 - Board may sit in panels of three members with no more than two members belonging to the same political party, for the purpose of hearing and deciding cases before the Board
 - Provide that a member's appointment specifically for the term of the effective date of the bill through June 30, 2024
 - will not count as a term for purposes of the prohibition currently preventing a Board member from serving more than two consecutive terms

6. Provide Employer Relief for Fraudulent Charges

- Provide economic relief to Kansas employers
- Includes fraud and/or improper payments
- Specific, limited & targeted timeframe

7. Employment Security Rate Table Changes

- Strikes the language that was applicable to old Arrayed System methodology used prior to 2015
- Provides updated fund control table for the purpose of making solvency or credit adjustments to maintain the Employment Security Fund balance beginning in rate year 2022
- Replaces the current uniform solvency rate adjustments to the standard rate schedule with six new solvency rate schedules and six new credit rate schedules providing for solvency and credit rating adjustments to be made according the experience rating of employers
 - Trust fund replenishment is more evenly spread out and avoids disproportionately penalizing employers who use the fund the least
 - Provides fair and proportional trust fund solvency/credit adjustments for each and every rated employer

A-9. Employment Security Interest Assessment Fund

- Clean up language as Employment Security Interest Assessment Fund is required by U.S. DOL
 - Provides that if the contributions collected from negative account balance employers and paid into the Employment Security Interest Assessment Fund for the purpose of paying interest on unemployment advances provided by the federal government exceed the amount of interest owed, any excess amount shall be transferred to the Employment Security Trust Fund
 - Prohibits any expenditures other than the payment of principal and interest on such advances from the federal government

A-10. Employer Account Protections & Payment Certification

- Requires employers to be held harmless and not owe any amount to the State for:
 - Any paid claim reported as fraudulent to Secretary of Labor, unless Sec. determines claim to be legitimate
 - Any claim that has been improperly paid, as would be defined by the bill
- Requires Secretary of Labor to make immediate restitution to employers, without requiring a hearing or a request from the employer, as follows:
 - Credit account of any contributing, governmental rated, or reimbursing employer for any paid benefits determined to be due to fraud or improper payment;
 - Refund “reimbursing employers,” who repay State for claims paid on their behalf, for any claim paid after 3/15/20, that is or is reported to be fraudulent by employer, unless determined to be otherwise by the Sec.
 - After reviewing all reimbursing employer accounts, apply credits for any unrecovered charges for fraudulent or erroneously paid claims
- For purposes of both restitution and indemnification:
 - Any determination with respect to the legitimacy of a claim would be subject to appeal; and
 - No time limit to dispute a fraudulent claim or related appeals for benefits paid between 3/15/20-12/31/22
- “Improper payments” defined as any payment that, according to legally applicable requirements, should not have been made or was in the incorrect amount.
- Requires the Secretary of Labor to review all information reported by the USDOL pursuant to the PII Act regarding improper payments between March 15, 2020, and December 31, 2022, and to:
 - Determine the amount of any improper payments within 60 days of such information becoming available;
 - Immediately certify such amounts to the Director of Accounts and Reports;
 - Upon certification, send copies of each certification to the Director of the Budget and the Director of Legislative Research

A-11. Payment Integrity Information Data Certification

- U.S. DOL – Payment Integrity Information Act Review
 - Specific focus on March 15, 2020 – December 31, 2022
 - Start of pandemic through new UI IT system implementation date

A-12. Federal UI Program Restrictions

- Specifies that any federal UI program established in response to a pandemic is not to be continued using state contributions after the federal program ends

8. Shared Work Program Modifications

- Requires Secretary of Labor to create and manage a promotional campaign for the Shared Work Program
 - Includes educational communications with other state agencies and stakeholders, including Governor's office, legislators, workforce investment boards, labor unions, and local, regional, or state chambers of commerce
- Eligibility of employees to participate in the program would be expanded from those whose hours of work are reduced by 20 to 40 percent of normal weekly hours to those whose hours of work are reduced by 10 to 50 percent of normal weekly hours
- Permits negative account employers (N1-N11) to be approved for the Program if their most recent calculated reserve ratio has improved from the previous reporting year's reserve ratio
- Clarifies eligibility for UI benefits pursuant to a Program agreement would not be conditioned upon work search or work availability limitations otherwise generally required of UI benefit recipients

A-13. PEO – Client Employee Reporting Prohibition Removal

- Similar provision/bill passed in one chamber during the 2020 session
- Amends a provision of the Employment Security Law pertaining to the quarterly reporting of tax and wage data
- Under current law, professional employer organizations, or independent businesses that provide leased employees to a client, are prohibited from including a client company's owners and officers in the same UI quarterly report as that company's employees
- Bill removes the prohibition

A-14. Effective Date of Bill

- Changes the effective date of the bill to be upon publication in the Kansas Register

Conceptual Amendment: Federal Program UI Debts Forgiveness

CONCEPT:

- Address the thousands of Kansans facing repayment of mistakenly paid **FEDERAL** program UI benefits
- This provision would forgive debts to Kansans due to overpayments from federal coronavirus relief programs, but would not stop collections on debts to the state's regular unemployment fund
- It would relieve a huge burden on Kansans based on the rushed decisions made and actions taken by KDOL with zero negative impact on the Kansas UI Trust Fund
- Federal law allows waivers for overpayments, claimants must submit a form expressing no fault and indicating if reimbursing for an overpayment would be a hardship
- No language has been developed... it's worth noting that Missouri and other states have recently passed similar bills
 - <https://www.altondailynews.com/news/details.cfm?clientid=17&id=320441>

Fiscal Impact Summary

- According to the fiscal note prepared by the Division of the Budget on the bill as introduced
 - KDOL estimates modernizing the UI IT system would cost \$46.7 million from all funds
 - Require \$688,660 and 9.0 FTE positions to staff the Council, perform fraud research, and serve the revised shared work program
- KDOL also notes it is unable to estimate the total amount of fraudulent and improper payments and is unable to estimate the amount of transfers to or from SGF
- Of the total fiscal effect of the bill, approximately \$37M for UI IT modernization is included in the FY2022 Governor's Budget Report
 - Other provisions of the bill are not reflected in the Governor's budget

In Summary

- Sub. HB 2196 fixes a broken system with common sense and evidence-based UI reforms:
 - Builds a better UI system and tightens up processes to serve all Kansans and all Kansas employers
 - Helps small businesses get back on their feet; and
 - Gets to the heart of hiring employees back into the workforce

Questions?



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