

Proponent Testimony on HB 2401
Committee on House Commerce, Labor and Economic Development
Julie Menghini, KDOL Government Affairs Director Shultz
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Mr. Chairman & Committee Members,

I am Julie Menghini, Government Affairs Director for the Kansas Department of Labor. I am submitting proponent testimony on House Bill 2401. HB 2401 is a small collection of changes the agency is requesting to assist with our Unemployment Insurance (UI) modernization project. There are five parts of this legislation, and I will explain the need for each part now.

Part 1 – Always Begin Benefit Year on a Sunday

Part 1 changes the current practice for providing UI benefits by making a benefit year always begin on a Sunday. This will ease the burden on KDOL staff and is important for modernization. TCS, our vendor for the UI modernization project, *highly recommends* this simple change in order for the state to save considerable time, effort, and cost on customized programming. This will not negatively affect claimants or employers. In addition, this date is better for the overpayment process, Benefit Timeliness and Quality (BTQ) self-assessment outcomes, and it will ensure that there is no benefit year overlap. Currently a benefit year typically starts on a Sunday and ends 365 days later, because of this, a new benefit year immediately following that may not start on a Sunday as they can't currently overlap. So, the new benefit year may start on a day other than Sunday for back-to-back benefit years.

Part 2 - Temporary Unemployment

Part 2 reconciles the definition of temporary employment with the changes this committee made to the My Reemployment Plan (MRP) program last year in HB 2703. In HB 2703, MRP was made mandatory for all UI benefits claimants, with specific exceptions outlined in statute. One such exception was for claimants on temporary layoff with a return-to-work date, but only for the first eight consecutive weeks of benefits. We need to resolve the discrepancy between the definition of temporary employment in our regulations (four weeks) with the definition we passed in HB 2073 (8 weeks). This helps employers keep valued employees who are on a temporary layoff for 8 weeks or less by not requiring that they seek other employment during that timeframe and is supported by both labor and employer groups.

Part 3 - On-line filing

In our efforts to modernize and reduce costs, we propose nudging more employers into online filing by lowering the threshold for those businesses that can opt out of online filing. Our proposed change would change the requirement for online filing from employers and third-party administrators with 50 or more employees to 25 or more employees. KDOL would still allow our

smallest employers to continue to opt out of online filing if they prefer. Currently, only about 3% of Kansas employers opt out of filing their quarterly wage reports and unemployment tax returns online. In addition, payments would still be allowed to be mailed to the agency.

Part 4 – State Unemployment Tax Act Amendments

This part of the legislation would remove the mid-year combining of rates when a business acquires another business in Kansas and accepts the experience rating, and only allow for rates to combine at the beginning of the year after the acquisition.

A little explanation here may help. The law is written that any business acquisition with the same *controlling interest* is required to combine rates the following quarter per statute. Then, a new account must be set up for the new, combined rate. Rates are based on the calendar year and therefore even the modernized software has to create a new account with the new combined rate.

In the event there is an acquisition that does not have the same controlling interest, and the employer *elects* transfer of factors, no new account number is needed as the rate is combined the following calendar year.

These two processes create inconsistency and additional work for employers when two accounts are assigned in the same year. This causes more work for all involved because employers are required to continue to report on the established account, and report on the new account with the combined new rate in the following quarter. Many of these employers are large entities who utilize payroll companies that then may report on the wrong account.

Employers have also complained that it delays their ability to have the Feds validate their federally required documentation because now there are two accounts for the State Unemployment Tax Act (SUTA tax) under their one Federal Employer Identification Number (FEIN) in the same tax year.

Most rates that are being combined, stay the same, or vary little from what the rate was. By the time the rates are combined mid-year, the employer has already met the taxable wages requirement. So, it is not until the following year that the employer is affected by the combined rate.

This change will ensure that all acquisitions are treated consistently, and it will reduce customization costs for modernization programming, ending this confusing practice for employers and KDOL staff.

Part 5 – Flexibility for the KESBOR permanent and temporary boards

HB 2196 included language to require the appointment of three temporary Kansas Employment Security Board of Review (KESBOR) members to handle the anticipated overflow of appeals at

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the secondary appeal level for UI benefits cases. The agency is seeking to leave the appointment of any additional temporary members at the discretion of the Secretary at this time as staff has indicated that we have not seen the surge that we had expected for this type of appeal. The nominating committee has recommended two of the experienced, temporary board members to fill permanent board positions whose terms are up for reappointment in March of 2023. KDOL would like to refrain from appointing two new temporary members unless there is a surge in secondary appeals prior to the sunset of this provision.

Mr. Chairman, that concludes my testimony on HB 2401. I thank you and the committee for your time and willingness to work with our agency to modernize the Kansas Unemployment Insurance system. Passage of this bill will move the agency forward in this process. I will stand for questions at the appropriate time.