



**Testimony for 2020 Special Committee of Economic Recovery
Employment Security Law: UI Trust Fund & Future Financial Impact**



September 17, 2020 – Topeka, Kansas

**Submitted on behalf of The Kansas State Council of the
Society for Human Resource Management (KS SHRM)**

By Phillip M. Hayes, SPHR – Past Director, KS SHRM

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Dear Members of the Committee:

My name is Phillip M. Hayes and I am here today on behalf of The Kansas State Council of the Society for Human Resource Management (KS SHRM). As Vice President for The Arnold Group – A Human Resource Company with six offices throughout South Central Kansas, I am responsible for planning, directing and delivering Corporate and customized HR services in support of business objectives with extensive experience in recruiting, employee development and work force planning. Additionally, I currently serve as the Chairman of the Employment Security Review Board. This three person board accepts, reviews and rules on all unemployment claim appeals from referee's decisions in a timely manner.

In addition to my day jobs, I have been a local, state and national SHRM member and volunteer for more than 20 years and have served as State Director for KS SHRM. For those unfamiliar with KS SHRM, it is a professional organization comprised of 2,300+ HR professionals in Kansas. KS SHRM serves the needs of HR professionals and advances the interests of the HR profession throughout the state. Our members are responsible for developing and implementing workplace policies and practices that comply with federal, state, and local laws and provide guidance to line managers on fair and effective people management practices. Our members serve in the public and private sectors representing unionized and non-unionized businesses of all sizes. As HR professionals, we are on the front lines of important employment issues on a daily basis where we serve as facilitators between the employer and employee(s) to ensure a safe and productive work environment.

On a daily basis our members are on the front lines when it comes to important employment issues such as:

- Workforce Planning and Employment
- Human Resource Development
- Compensation and Benefits
- Employee and Labor Relations
- Workers' Compensation
- Unemployment Insurance

I am here today to walk through some background information KS SHRM submitted to the Kansas Office of Recovery on Wednesday, August 26, 2020. This letter and information shared with the Office of Recovery can be found on pages 6-9 in my testimony.

To echo a little bit of what Dina and Jessica shared in their testimony earlier, I would like to share my company's claim summary of recent documented and reported job refusals since March 9, 2020. This summary can be found on page 4 in my testimony. Additionally, my company's annual claims comparison can be found on page 5, which clearly illustrates the lingering and compounding effects of an economic downturn, specifically, the 2008 Great Recession.

Since our submission to the Office of Recovery, we have been fine tuning the data forecast and I want to provide an overview of the likely, extended path Kansas employers will be walking down beginning in a few short months.

Kansas Small Business MUST prepare for STEEP Hikes in Unemployment Insurance Taxes

Kansas employers have been operating under the credit adjustment SUTA tax table since 2019, which afforded every rated employer in the state a one half percent credit reduction on their earned rate group tax rate. However, beginning in 2021, Kansas employers should plan for increased unemployment taxes for successive years, as the Kansas UI trust fund faces a looming deficit after unprecedented demand for benefits reached record heights during the pandemic.

Following is a summary of Kansas unemployment tax projections, per qualifying employee, including FUTA amounts:

Annual KS Unemployment Insurance Tax Amounts (per Qualified Employee)						
Annual Percentage Increases						
Calendar Years	2020	2021	2022*	2023*	2024*	2025**
Best-Rated Employers: (Rate Group 1)	\$42	\$70 66.67%	\$294 320.00%	\$294 0.00%	\$294 0.00%	\$315 7.14%
<i>Projected 650.00% increase per employee from 2020-2025</i>						
Mid-Rated Employers: (Rate Group 19)	\$546	\$574 5.13%	\$798 39.02%	\$798 0.00%	\$798 0.00%	\$819 2.63%
<i>Projected 50.00% increase per employee from 2020-2025</i>						
Worst-Rated Employers: (Rate Group N11)	\$1,036	\$1,106 6.76%	\$1,330 20.25%	\$1,330 0.00%	\$1,330 0.00%	\$1,351 1.58%
<i>Projected 30.41% increase per employee from 2020-2025</i>						
<i>*Projected to hit maximum SUTA rate by law</i>						
<i>**Projected to hit maximum SUTA rate by law AND lose partial FUTA credit</i>						

The 2020 Kansas Legislature did take action to adopt the neutral/standard rate table for 2021, delaying the inevitable tax increases. Although we will see a modest increase in 2021 ranging from 5.13% to 66.67%, the compounding effect projected over the next several years will yield increases ranging from 30.41% to 650.00% -- estimated at an average additional amount of \$295 per qualifying employee in coming years.

The unemployment insurance tax increase is a looming crisis that could further stall an economic recovery and the creation of new jobs. This is a classic Catch-22, we need businesses creating jobs, however it's going to be prohibitively more expensive to do so and the increased tax rates will dampen Kansas' economic growth cycle.

Currently, Kansas has an unemployment rate of 7.2% as last reported for July 2020 — tied at tenth best in the U.S. Unfortunately, a recent study shows that Kansas has the slowest recovery of weekly unemployment claims in the nation:

[WalletHub.com](https://www.wallethub.com/states-whose-weekly-unemployment-claims-are-recovering-the-quickest/) says it recently conducted a study of the [States Whose Weekly Unemployment Claims Are Recovering the Quickest](https://www.wallethub.com/states-whose-weekly-unemployment-claims-are-recovering-the-quickest/) and based on new unemployment claims filed, unemployment claims filed since the beginning of 2020 and unemployment claims filed since the beginning of the pandemic compared to the number of claims for the same time period in 2019, it found that Kansas is recovering the slowest.

WalletHub says out of all 50 states and Washington D.C., Kansas' unemployment claim recovery ranks dead last. It says compared to the week of Aug. 17 - 22, Kansas unemployment claims ranked 51 out of 51. It says, however, that since the beginning of the pandemic, Kansas' unemployment claims recovery ranks 24 in the nation.

According to the study, Kansas' change in unemployment claims for the week of Aug. 17 - 22 was up 1,238.6% from the same week in 2019. It says the state's change in unemployment claims from the start of 2020 increased by 684.4% and the change in unemployment claims since the beginning of the COVID-19 pandemic has increased by 1,148.4%, accounting for its worst unemployment recovery position.

To compare, the study says Oregon currently ranks as the most recovered for the week of Aug. 17 - 22 and second as the most recovered since the start of the COVID-19 pandemic. It shows that Oregon's change in unemployment claims for this week compared to the same week in 2019 is up by 56.1%, while its change in unemployment claims since the start of 2020 is down by 24.1% and its change in unemployment claims since the beginning of the COVID-19 pandemic is up by 679.8%.

The study also shows that Kansas has the second-lowest recovery for the week of Aug. 17 - 22 since the start of the COVID-19 pandemic.

As with any business, but especially true for small business, it must to be affordable to create jobs... and when UI taxes are projected to skyrocket as outlined above, that becomes problematic and will likely hinder job growth. Unfortunately, unemployment taxes are likely the first of many bills resulting from the pandemic and increased UI taxes could easily push many businesses to their breaking point.

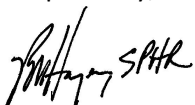
Immediate recommendations to assist Kansas Department of Labor (KDOL) and the Kansas economy:

1. Allocate additional resources ASAP to KDOL to allow them to adequately address the mounting fraud concerns/impact on the KS UI Trust Fund and the growing claim appeals backlog.
2. Send UI fraud alerts and resources to every Kansas employer.
3. Enhance marketing/communication efforts regarding the Kansas Shared Work Program, as this program serves as a layoff alternative and reduces the financial burden on the Kansas UI Trust Fund.

Following the Great Recession of 2008, KS SHRM worked closely with the Kansas Department of Labor on numerous reform initiatives which proved to be very successful and impactful across the state. Unfortunately, no one predicted the 100 year UI flood (2008 recession) would be followed by the 1,000 UI flood (COVID-19) regarding unemployment claims and the impact it has had and continues to have across our state and nation. The Kansas State Council of SHRM (KS SHRM) along with the Kansas employer community welcomes the opportunity to engage in the current discussion by offering considerations regarding efforts to ease the UI financial burden on all Kansas employers, especially small business. KS SHRM has begun collecting and prioritizing a working list of recommendations as part of a broader solution to our current situation. We are hopeful KDOL will be receptive and responsive in partnering with the Kansas employer community on smart and fair solutions as we move forward.

Thank you for your service to our great state, for serving on this important committee and also for the opportunity to appear before you today. I would be happy to stand for questions now or at the appropriate time. Additionally, I can be contacted at 316.619.7864 or by email at phayes@the-arnold-group.com for questions/concerns.

Respectfully,



Phillip M. Hayes, SPHR
Past Director, KS SHRM

The Arnold Group – Unemployment Claims Summaries:

Job Refusal Summary: March 9, 2020 - September 14, 2020

No show to drug screen / job processing	19
No response	8
No transportation / too far	5
No reason given	11
Environment	4
Not looking for work	1
Pay	9
Found other employment	16
Started online business	1
Out for surgery	1
Not looking for work / wants unemployment / time off	9
No response / no show to interview	6
Needed more notice	1
Refused for COVID / safety	3
Not interested	13
Shift is not compatible	2
Waiting to hear from another job	4
Wants full time / not interested in temporary or temp-to-hire	2
Going out of town	5
Interviewing with another company	1
Currently employed	5
Returning to school	1
Moving out of the area	1
A Few of My Personal Favorites	
6/24/20: "I'm not available until August."	1
7/31/20: "I don't want to work in a pandemic, I will wait till its over before accepting work."	1
8/26/20: "Now that another stimulus check is not coming in, I want to get back to work."	1
"I want to wait until next week for unemployment"	1
"I've done work like that before, \$13/hr with 6 kids wouldn't get me up out of bed. I'm not looking for temp service jobs either. Maybe some less qualified needing more experience in the workplace would be ideal."	1
"I have an interest in the position, but I can't mess up my unemployment by taking a full time job. I'm only looking to replace my current PT role of 10 hours or less per week, so I can still receive unemployment benefits."	1
Total Job Refusals submitted to KDOL since March 9, 2020	133
<i>*Claims in Bold - These claims should be easily denied at face value and on merit</i>	86

The Arnold Group – Unemployment Claims Summaries: (cont.)

UI Claims Summary - Provided to illustrate the lingering effect of an economic downturn

*Notice Year	# Claims	# Claims Paid	Total Charges
2007	176	120	\$ 96,414.18
2008	268	61	\$ 57,577.38
2009	236	74	\$ 110,961.31
2010	360	120	\$ 214,182.20
2011	413	105	\$ 194,057.59
2012	481	119	\$ 151,014.91
2013	594	88	\$ 134,026.82
2014	567	94	\$ 103,549.83
2015	442	94	\$ 121,734.58
2016	277	71	\$ 79,604.22
2017	301	54	\$ 42,876.78
2018	298	19	\$ 24,922.51
2019	256	16	\$ 14,746.89
2020 YTD (through 9/14/20)	890	12	\$ 15,989.04
2021	TBD		TBD

**Claim Charges for Fiscal Year Ending on June 30th of Prior Year*

August 26, 2020

Office of Recovery
Julie Lorenz | Executive Director
Kansas Governor Laura Kelly
Capitol Building
300 SW 10th Avenue, Room 241-S | Topeka, Kansas 66612

Sent via email to recovery@ks.gov

Dear Ms. Lorenz,

We write to you as a coalition of business partners, all doing whatever it takes to serve those in need amid this pandemic. As you know, nearly every Kansas employer and employee is or has been impacted by the pandemic, regardless of political affiliation, size of company, location in the state, or nature of their business. It is most evident through the utilization of the Unemployment Insurance Trust Fund. **As further outlined below, we respectfully request the SPARK committee infuse \$300 million into the Kansas Unemployment Insurance Trust Fund (Trust Fund).**

Due to the pandemic there have been unprecedented claims made to the Kansas Unemployment Insurance System causing a drastic drop in the balance of Trust Fund as displayed in **Attachment A**. This draw on the Trust Fund is unparalleled. Even during the 2008-2009 recession, as **Attachment B** highlights, it was a “gradual decline” of the Trust Fund balance over the course of 52 weeks whereas **Attachment C** highlights the “sharp decline and trend line” of the Trust Fund balance from March 21 – August 8, 2020. Furthermore, based on tracking the Trust Fund balance and average benefit payments during the past 19 weeks, **we are projected to bankrupt the Trust Fund as early as the last week in December**. If initial and continued claims continue to rise it is very likely the Trust Fund will bankrupt before then. And unfortunately, the traditional “high season” use of the Trust Fund is still yet to come.

Attachment D shows initial claims increased for four consecutive weeks from the week ending on June 20, 2020 through July 11, 2020. There was a steep drop in claims for the week ending July 18, 2020, but since then claims have increased for the past three consecutive weeks. Continued claims have averaged 85,062 weekly from July 20, 2020 to August 8, 2020.

If the Trust Fund is bankrupt on December 31, 2020, the repayment clock begins to run and Kansas will have to repay all borrowed funds plus interest on or before November 10, 2022, based on federal borrowing requirements/provisions, if we are still in a borrowing state on January 1, 2022. Consider the following:

- Assuming the Trust Fund bankrupts by year end, coupled with the standard/neutral SUTA tax rate tables the 2020 KS Legislature passed for CY 2021, Kansas will be on a path for **significant** unemployment tax increases by the year 2024, including the first partial loss of our standard FUTA credit reduction
- If the fund stays on the current path, projections for Kansas Unemployment Insurance Tax Rates will be, at best:
 - **Best Rated Employers:** Potential **700.00% increase by 2024**
 - 2020: \$42 per EE | 2024: \$336 per EE
 - **Worst Rated Employers:** Potential **32.43% increase by 2024**
 - 2020: \$1,036 per EE | 2024: \$1,372 per EE

As the SPARK Task Force considers economic recovery proposals for the far-reaching effects of COVID-19, please prioritize support and resources to help **EVERY** Kansas employer, both rated- and reimbursing employers across the state.

While we all hope for a “federal fix” to this critical issue, one is currently not being considered. The most immediate assurance for all Kansas employers is for the SPARK Task Force to allocate funds to replenish the Trust Fund and avoid bankruptcy in the midst of the COVID pandemic. While any allocation will help keep the Trust Fund solvent, we respectfully request the SPARK committee infuse \$300 million into the Trust Fund and avoid federal penalties through at least November 10, 2023, allowing for more time to recover.

Although KDOL has indicated individual employer accounts will not be charged for COVID-19 related UI claims, the impact will still be felt. **Kansas employers may not be charged for these claims, but we will most certainly pay for them for many years to come as the Trust Fund balance must be replenished.** Can employers emerging from the pandemic really afford upwards of a 700% increase in their unemployment tax contributions? This dramatically increased cost will likely impede the hiring of employees in our recovery efforts:

Total KS employment is down from 1,465,900 (March 2020) to 1,369,700 (June 2020) – **a net loss of 96,200 jobs.** To further compound the problem at hand, less jobs equate to less SUTA tax contributions from employers to fund the trust fund.

Investment into the Trust Fund directly benefits the 70,000+ employers across the State of Kansas. Every employer across the state, in every county, district, city, etc. will reap the long-term benefits of this relief. This relief covers the most neutral ground as it is non-partisan, offers long-term relief to both small and large employers, will be felt in urban and rural Kansas, and benefits union and non-unionized employers alike, which will impact the pace of future hiring during our critical, early and ongoing stages of recovery.

On behalf of the member organizations below we thank you for your consideration of this request as it will have a lasting impact on economic recovery efforts for the state of Kansas. If you have any questions or would like to discuss our request further, please do not hesitate to contact us.

Best regards,

Natalie Bright, Executive Director
Kansas Society for Human Resource Management

American Eagle Outfitters
Associated General Contractors of Kansas
Blish Mize Company
Cerner
Dondlinger Construction
Hess Services, Inc.
iSi Environmental
Kansas Bankers Association
Kansas Chamber of Commerce
Kansas Global Trade Services
Kansas Manufactured Housing Association

Kansas medical Society
Kansas Society for Human Resource Management
Lawrence Paper Co.
Lenexa Chamber of Commerce
Martin-Smith Personnel Services, Inc.
National Federation of Independent Businesses
Olathe Chamber of Commerce
Overland Park Chamber of Commerce
Textron Aviation
WATCO Companies
Wichita Chamber of Commerce

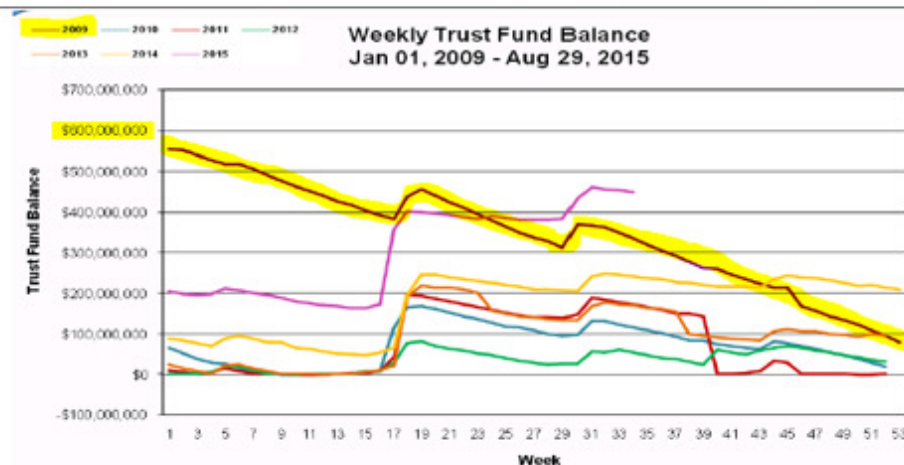
Attachment A

Week Ending	Totals Since WE 3/21	
	Totals	Weekly Averages
Kansas Trust Fund Balance	\$ 984,800,000	\$ 660,000,000
# Weeks Trust Fund to ZERO - KS Only benefits (KS Only - UI)	311.61	29.93
# Years Trust Fund to ZERO - KS Only benefits (KS Only - UI)	5.99	0.58
Projected Date of KS Trust Fund Bankruptcy	3/11/2026	3/5/2021
Regular Claims		
Initial Claims	23,925	15,006
Call Center	8,141	1,211
Internet	15,784	13,795
Internet %	65.97%	91.93%
Continued Claims	10,027	74,550
Total Payments Summary		
Regular Unemployment Insurance (KS Only - UI)	\$ 3,160,402	\$ 59,261,586
Fed Pandemic Unemployment Comp (FPUC)	\$ -	\$ 22,052,033
Pandemic Unemployment Assistance (PUA)	\$ -	\$ 25,057,971
Pandemic Emergency Unemployment Comp (PEUC)	\$ -	\$ 10,993,369
State Extended Benefits (EB)	\$ -	\$ 1,158,213
	\$ -	\$ 108,422
Regular Unemployment Insurance (KS Only - UI)		
# Weeks Compensated	7,929	67,222
Final Payments	261	1,565
Individuals Receiving Payments	7,453	58,944
Average Weekly Benefit Amount	\$ 398.59	\$ 328.05
Pandemic Unemployment Assistance (PUA)		
Initial Claims		8,683
Continued Claims		147,456
# Weeks Compensated		37,959
Pandemic Emergency Unemployment Comp (PEUC)		
Initial Claims		1,247
Continued Claims		2,682
# Weeks Compensated		2,935
State Extended Benefits (EB)		
Initial Claims		111
Continued Claims		236
# Weeks Compensated		273

Attachment B

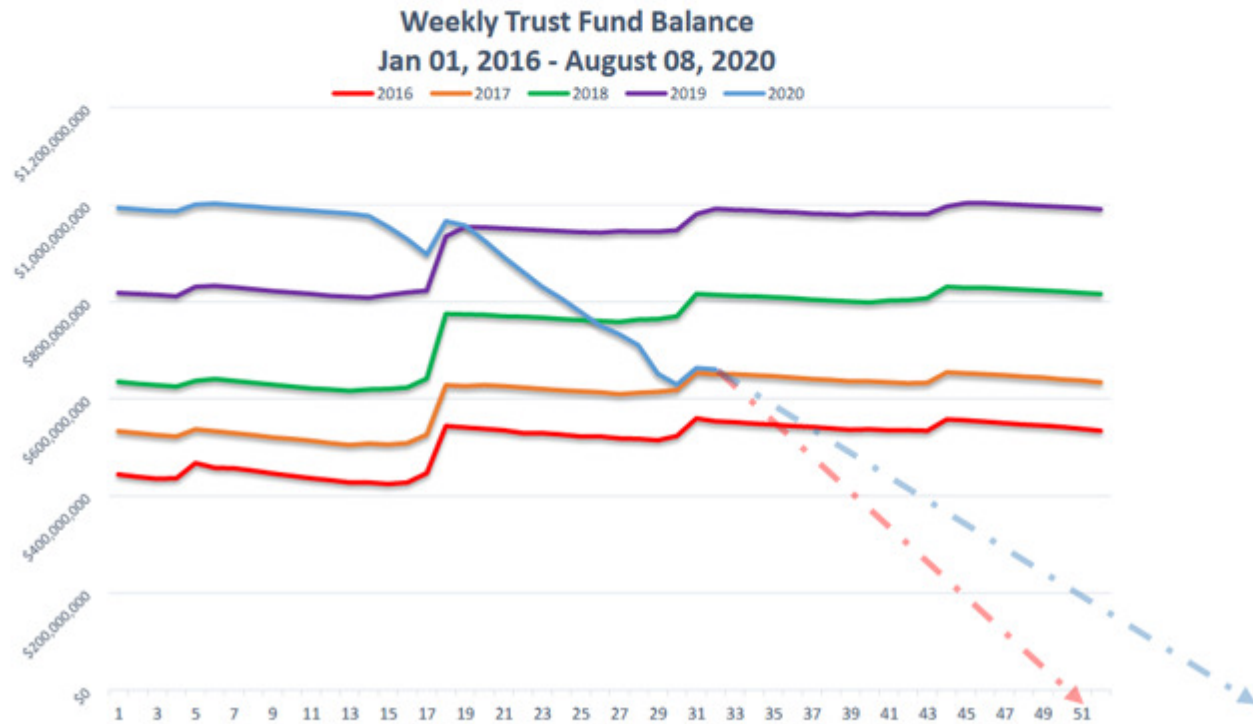
This graph highlights the “gradual decline” of the 2009 KS UI Trust Fund Balance over the course of 52 weeks compared to the sharp decline/trend line for the past 19 weeks of 2020 in Attachment C:

KS UI Weekly Review (UIWR)



Attachment C

This graph highlights the “sharper decline and trend line” of the 2020 KS UI Trust Fund Balance over the past 19 weeks from March 21 – August 8, 2020. Additionally, based on tracking the trust fund balance and average benefit payments during the past 19 weeks, **we have projected trust fund bankruptcy by year end – nine out of the last 19 weeks**. If initial and continued claims continue to rise or we see a significant spike, it is very likely the trust fund will bankrupt before year end (and our high season is right around the corner).



Attachment D

This table shows initial claims increased for four consecutive weeks from the week ending June 20, 2020 – July 11, 2020. There was a steep drop in claims for the week ending July 18, 2020, but since then claims have increased for the past three consecutive weeks. Continued claims have averaged 85,062 weekly from July 20, 2020 – August 8, 2020.

Week Ending	6/13/2020	6/20/2020	6/27/2020	7/4/2020	7/11/2020	7/18/2020	7/25/2020	8/1/2020	8/8/2020
Kansas Trust Fund Balance	\$ 805,900,000	\$ 779,400,000	\$ 751,700,000	\$ 733,400,000	\$ 710,000,000	\$ 651,300,000	\$ 628,800,000	\$ 663,400,000	\$ 660,000,000
# Weeks Trust Fund to ZERO - KS Only benefits (KS Only - UI)	28.75	30.79	28.87	27.32	27.47	23.56	25.46	28.35	29.93
# Years Trust Fund to ZERO - KS Only benefits (KS Only - UI)	0.55	0.59	0.56	0.53	0.53	0.45	0.49	0.55	0.58
Projected Date of KS Trust Fund Bankruptcy	12/31/2020	1/21/2021	1/15/2021	1/11/2021	1/19/2021	12/19/2020	1/19/2021	2/15/2021	3/5/2021
Regular Claims									
Initial Claims	8,763	9,884	10,962	12,881	17,173	10,260	12,511	11,092	15,006
Call Center	2,278	3,369	3,627	3,372	8,075	1,831	1,996	1,226	1,211
Internet	6,485	6,515	7,335	9,509	9,097	8,429	10,515	9,866	13,795
Internet %	74.00%	65.91%	66.91%	73.82%	52.97%	82.15%	84.05%	88.95%	91.93%
Continued Claims	88,345	86,440	84,401	88,472	87,611	90,795	83,535	84,753	74,550