

SESSION OF 2021

**CONFERENCE COMMITTEE REPORT BRIEF
SENATE SUBSTITUTE FOR SUBSTITUTE FOR HOUSE
BILL NO. 2196**

As Agreed to April 8, 2021

Brief*

Senate Sub. for Sub. for HB 2196 would create the Unemployment Compensation Modernization and Improvement Council; require the Kansas Department of Labor (KDOL) to modernize its information technology (IT) infrastructure; make temporary changes to the membership of the Employment Security Review Board; make changes to Employment Security Rates tables; require the Secretary of Labor to provide tax notifications and certain Employment Security Fund Data Reporting; provide for certain employer account protections; provide for transfers of federal coronavirus relief aid to the Employment Security Fund and the Legislature Employment Security Fund; prohibit the continuation of federal unemployment compensation programs using state funds; adjust thresholds for maximum benefits; modify the shared work program; and make other employment security compensation changes. The bill also would make technical changes.

The bill would be in effect upon publication in the *Kansas Register*.

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

Unemployment Compensation Modernization and Improvement Council

The bill would create the Unemployment Compensation Modernization and Improvement Council (Council), which would consist of 13 members.

Non-legislative members would be:

- Three representatives of employers, one each selected by the Governor, the President of the Senate, and the Speaker of the House;
- Three representatives of employees, one each selected by the Governor, the President of the Senate, and the Speaker of the House; and
- The Secretary of Labor or their designee with a role in the administration of the Unemployment Insurance (UI) system.

Non-legislative members would serve a term of the shorter of three years or until the dissolution of the Council.

Legislative members would be as follows:

- As appointed by the President of the Senate:
 - One Senate member from the majority party; and
 - The chairperson of the Senate committee to which UI legislation is typically referred;
- As appointed by the Speaker of the House:
 - One House member from the majority party; and
 - The chairperson of the House committee to which UI legislation is typically referred;

- One minority party Senate member, appointed by the Senate Minority Leader; and
- One minority party House member, appointed by the House Minority Leader.

Legislative members of the Council would serve during the session in which they are appointed and could retain membership while remaining members of the Legislature.

Council vacancies would be filled in the same way as original appointments, to last for the remainder of the term of the member being replaced. A member could also be removed, reappointed, or substituted at any time by their respective appointing authority. Members of the Council would be entitled to compensation for service and for any necessary expenses incurred, to be paid from the Employment Security Administration Fund.

Operation of the Council

The bill would require the following to be part of the operation of the Council:

- Members would be appointed within 30 days of the effective date of the bill;
- The first meeting would be held within 30 days of the effective date of the bill;
- The chairpersonship of the Council would alternate at two-year intervals between the chairpersons of the House and Senate standing committees to which employment security legislation is typically referred, beginning with the chairperson of the House;
- The Council would be staffed by personnel from Legislative Administrative Services, the Kansas

Legislative Research Department, and the Office of Revisor of Statutes, as requested by the chairperson of the Council; and

- The Council would be able to suggest to the Secretary of Labor rules and regulations necessary to carry out its function.

Role of the Council

The bill would require the Council to:

- Examine and recommend changes to the UI system;
- Examine the claim-filing and benefit disbursement process, and any future changes thereto;
- Examine and recommend changes on topics including but not limited to:
 - Technological infrastructure;
 - Improvements to system responsiveness, integrity, security, and data verification; and
 - Methods of information sharing;
- Conduct an audit of the UI system, with a preliminary report by May 1, 2022, and a final report by September 1, 2022:
 - Examining the effects of fraudulent claims and improper payments from March 15, 2020, through March 31, 2022, and the response by KDOL to such claims;
 - Examining the amounts and nature of such claims, fraud processes, and methods, and the potential for recovery of fraudulent payments;

- Evaluating the likelihood of a data breach contributing to fraud and improper network architecture allowing a potential breach to have occurred; and
- Including information on the implementation of all program integrity elements and guidance issued by the U.S. Department of Labor and the National Association of State Workforce Agencies [*Note:* This requirement would be ongoing for all subsequent reports.];
- Issue an initial report within 14 days of the Council's first meeting describing the state of the process by which individuals file UI claims and receive UI benefits; and
- In coordination with the Secretary of Labor:
 - Develop a strategic staffing plan to address substantial changes in numbers of claims, including the prospective use and sources of additional employees;
 - Publish all points of contact for UI inquiries or claims to KDOL's website;
 - Recommend for adoption rules and regulations for creating a uniform UI complaint submission process; and
 - Adopt and periodically review a definition of "substantial disruption" in the benefit application and determination process.

The Secretary of Labor would have additional responsibilities related to the Council:

- Post all materials from Council meetings on a public website maintained by the Secretary;
- Develop the initial written strategic staffing plan, review it annually, and revise it as necessary. After each review, the most recent version would be

provided to the Council and published on a public website maintained by the Secretary;

- Notify the Council Chairperson of any unauthorized third-party access or acquisition of records within five days of becoming aware of such an event; and
- Notify the Council members of any substantial disruption in the benefit application and determination process.

The bill would also require the Secretary of Labor, or their designee, to provide status reports on or before the 15th day of each month and the last day of each month to the Council. The report would be required to include, but not be limited to, information regarding the timeline, progress, budget, and overall status of the unemployment information technology system upgrade. Once the upgrade is complete, the report would include information on system performance and process updates.

The Council would not be permitted to examine the solvency of the Unemployment Compensation Fund (*cf.* KSA 2020 Supp. 44-710a).

The Council would dissolve and all provisions related to the Council would be of no effect three years after the date of its first meeting.

KDOL Information Technology Modernization

As a supplement to the Employment Security Law, the bill would establish as the intent of the Legislature that KDOL's IT system be continually developed, customized, enhanced, and upgraded, in order to collect State employment security taxes, process UI claims, and pay UI benefits. To this end, the bill would require the Legislative Coordinating Council (LCC) to establish a deadline for completion of the new UI system.

The LCC would also be authorized to extend the deadline for completion of the modernization project at any time with input from the Council.

The information technology system, technology, and platform would include, but not be limited to, components specified and defined by the Council in consultation with the Secretary of Labor.

The new system would also include, but not be limited to, features and benefits as specified and defined by the Council in consultation with the Secretary of Labor.

The Secretary of Labor would be required to implement all program integrity elements as specified and defined by the Council in consultation with the Secretary of Labor. The bill would specifically direct the Secretary to implement elements including, but not limited to, the following:

- Cross-matching of social security numbers with the Social Security Administration;
- Checking new hire records against the National Directory of New Hires;
- Verification of citizenship or immigration status through the Systematic Alien Verification for Entitlements program;
- Comparison of applicant information with local, state, and federal prison databases;
- Use of the following to detect duplicate claims:
 - Interstate Connection Network;
 - Interstate Benefits Cross-Match;
 - State Identification Inquiry State Claims and Overpayment File; and

- Interstate Benefits 8606 application for overpayment recoveries for claims filed in other states;
- Identification of IP addresses linked with multiple claims or claims filed outside the United States; and
- Use of data mining and analytics for fraud detection and prevention.

The bill would require, should the Council become inactive or dissolved and the new information technology system modernization project is completed, the Secretary of Labor to implement and utilize all program integrity elements and guidance issued by both the U. S. Department of Labor and the National Association of State Workforce Agencies within 60 days of issuance of such guidance.

The bill would require the cross-checks described above to be carried out for new and active UI claims on a scheduled basis. Individual cases would be reviewed for any claimants approved for benefits for whom changes of circumstances affecting eligibility are identified.

The bill would authorize KDOL to execute a memorandum of understanding with any state department, agency, or agency division for information required to be shared by the bill.

The Secretary of Labor would be required to adopt rules and regulations to carry out the provisions of the bill within 12 months of the effective date of the bill and to provide an annual status update and progress report to the Council.

The bill would prohibit any state agency entering into any contract for UI information technology modernization until the Council has reviewed and made recommendations concerning the system and technology and platform specifications and the LCC has reviewed such

recommendations. Such review would be required to take place within 60 days of the close of the request for proposal for the modernization.

Additionally, the bill would provide that the procurement negotiating committee for the procurement modernization proposed by this bill would include the chairperson of the Joint Committee on Information Technology in the position otherwise occupied by the Chief Administrative Officer of the Department of Labor.

Employment Security Board of Review—Temporary Changes

The bill would provide that from the effective date of the bill to June 30, 2024, the Employment Security Board of Review (Board), currently composed of three members, will consist of six members, with no more than four of the members belonging to the same political party rather than two as in current law.

The bill would provide that the 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.

The bill would provide that a member's appointment specifically for the term of the effective date of the bill through June 30, 2024, would not count as a term for purposes of the prohibition currently preventing a Board member from serving more than two consecutive terms.

Employment Security Rate Tables Changes

The bill would provide for new tables for solvency and credit adjustments for the purpose of making solvency or credit adjustments to maintain the Employment Security Fund balance beginning in rate year 2022.

The bill would replace 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.

Tax Notification

The bill would require the 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
- The tax withholding process and estimated weekly and maximum withholding amounts.

Unemployment Trust Fund Data Reporting

The bill would require the Secretary of Labor to publish certain certified data related to the UI Trust Fund on a publicly accessible website maintained by the Secretary.

The bill would require the following information to be maintained for the most recent 20 fiscal years, first published within 120 days of the effective date of the bill, and, for each fiscal year beginning in FY 2022, published on or before December 1 following the end of such fiscal year:

- Distributions of taxable wages by experience factor for each fiscal year, to include:
 - The rate group;
 - The reserve ratio lower limit;

- The number of accounts;
- Taxable wages; and
- Summaries including the number of accounts and FY taxable wages for active positive eligible, active ineligible, and active negative accounts;
- The average high-cost benefit rate summary, to include:
 - The average high-cost benefit rate in effect at that time, and
 - The benefit cost rate for fiscal years used to compute the average.

The Secretary of Labor would be required, for the three years following the effective date of the bill, to annually provide projections of the number and amount of UI claims, the UI Trust Fund balance, and the amount of employer premiums to be paid, to the House Committee on Commerce, Labor and Economic Development and the Senate Committee on Commerce.

Reemployment and Work Skills Training Services Provisions

The bill would require the Secretary of Labor and the Secretary of Commerce to jointly establish and implement programs providing reemployment and work skills training services to UI benefit recipients, to be known as “my reemployment plan” program by June 1, 2021. The program would be available to all claimants except for those in the shared work program, trade readjustment assistance programs, or on temporary layoff with a return-to-work date.

The bill would require the Secretary of Labor to provide the names and contact information of claimants who have received benefits for three continuous weeks to the Secretary of Commerce. The Secretary of Commerce would then be

required to request the following documents and information from such claimants:

- Resume;
- Work history;
- Skills list; and
- Job search plan.

The Secretary of Labor would also be required to share labor market information and current available job positions with the Secretary of Commerce.

The bill would require the Secretary of Commerce to:

- Collaborate with the KANSASWORKS workforce system to provide assistance, when requested, to claimants;
- Match open job positions with claimants based upon skills, work history, and job location;
- Facilitate and oversee the claimant and employer interview process;
- Monitor the results of job matches, including information regarding claimants who did not attend an interview or did not accept a position, and report such claimants to the Secretary of Labor; and
- Develop and implement a work skills training or retraining program for claimants in collaboration with the KANSASWORKS workforce system, the Secretary of Labor, and other organizations.

The bill would authorize the Secretary of Labor to allow claimants to participate in work training or retraining programs offered by the Secretary of Commerce in lieu of the job search requirements. Claimants attending such training would be required to participate for no less than 25 hours per week, and their attendance and progress would be monitored by the

Secretary of Commerce. Claimants who fail to meet attendance and progress requirements would be disqualified by the Secretary of Labor within five business days of receiving the report of their noncompliance. Benefits would be restored upon reestablishment of compliance and reported by the Secretary of Commerce or the Secretary of Labor finding a show of good cause by the claimant.

The Secretaries of Commerce and Labor would be required to enter into appropriate agreements for sharing of relevant information and to provide an annual status update and progress report for the “my reemployment plan” program to specified legislative standing committees.

Work Refusal Provisions

The bill would require the 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 such a notification, the Secretary would be required to determine if the offered employment is suitable, considering if the wages offered are comparable to the claimant’s recent employment, work duties correspond to the claimant’s education level and work experience, and the wages offered are at least the amount of the claimant’s maximum weekly UI benefits.

The Secretary would be required, within ten business days of receiving work refusal notification from an employer, to notify the claimant who refused work information including:

- 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.

Unemployment Rate Thresholds for Maximum Benefits

The bill would raise the minimum threshold for receiving a maximum of 20 weeks of UI benefits from a 3-month seasonally adjusted average unemployment rate of 4.5 percent to a rate of 5.0 percent for weeks beginning September 5, 2021.

Benefits Disqualification for Fraudulent or Misleading Statements

The bill would shorten the time an individual is to be disqualified from receiving benefits for fraudulent or misleading statements from five years to one year upon the repayment of all overpayments, interest, penalties, and fees for the first offense and five years upon the repayment of all overpayments, interest, penalties, and fees for each subsequent offense.

The bill would also establish a crime classified as a severity level 5 nonperson felony for any individual who makes fraudulent or misleading statements to obtain UI benefits if they meet the following criteria:

- Failed to engage in employment as defined in statute;
- Failed to perform any services for wages within the state not within the meaning of employment;
- Made such fraudulent or misleading statements while purporting to be another individual without their consent; and

- Communicated or caused to be communicated false statements or representations on 3 or more occasions during a 30-day period while purporting to be another individual without that individual's consent.

Employer Account Protections and Payment Certification

The bill would require employers to be held harmless and not owe any amount to the State for:

- Any paid claim reported as fraudulent to the Secretary of Labor, unless the Secretary determines the claim to be legitimate; and
- Any claim that has been improperly paid, as defined by the bill, and described below.

The bill would require the Secretary of Labor to make immediate restitution to employers, without requiring a hearing or a request from the employer, as follows:

- Credit the account of any contributing, governmental rated, or reimbursing employer for paid benefits determined to be due to fraud or improper payment;
- Refund "reimbursing employers," who repay the State for claims paid on their behalf, for any claim paid after March 15, 2020, that is or is reported to be fraudulent or improper by the employer, unless it is determined to be otherwise by the Secretary; and
- After reviewing all reimbursing employer accounts, apply credits for any unrecovered charges for fraudulent or improperly 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
- There would be no time limit for disputing a fraudulent claim or related appeals for benefits paid between March 15, 2020, and December 31, 2022.

For the purposes of the bill, “improper payments” would be defined as any payment that, according to legally applicable requirements, should not have been made or was in the incorrect amount.

The bill would require the Secretary of Labor to review all information reported by the U.S. Department of Labor 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; and
- Upon certification, send copies of each certification to the Director of the Budget and the Director of Legislative Research.

Federal Coronavirus Relief Aid Transfers; Legislature Employment Security Fund

The bill would provide for at least the lesser of an aggregate of \$500.0 million or the maximum amount available, as determined by the Director of the Budget, to be transferred from special revenue funds to the Employment Security Fund and the Legislature Employment Security Fund (LESF) of the LCC, which would be created by the bill, during FY 2021 and FY 2022. A transfer of \$250.0 million would be made to the Employment Security Fund and a transfer of

\$250.0 million would be made to the LESF. The transfers would be made up of moneys identified by the Director of the Budget to be unencumbered coronavirus relief funds that may be spent at the discretion of the State, in compliance with federal requirements, and provided by federal legislation enacted in response to the COVID-19 pandemic.

The bill would provide that if the amount of fraudulent and improper payment identified by the audit conducted by the Council and any identified improper payments made between April 1, 2022 and December 31, 2022 exceeds the amount of federal coronavirus relief funds transferred to the Employment Security Fund and the LESF, the Secretary of Labor would be required to certify the amount of such excess to the Director of the Budget. The Director of the Budget would be required to identify the amount of unencumbered, discretionary federal coronavirus relief funds available and would be required to transfer an amount of such funds up to the amount of the excess to the LESF.

Upon receipt of certifications concerning the amount of fraudulent or improper payments, the LCC would be required to notify the Legislative Budget Committee (LBC). The LBC would be required to make recommendations to the LCC concerning transferring funds from the LESF to the Employment Security Fund. Upon receiving recommendations from the LBC, the LCC would be authorized to transfer funds from the LESF to the Employment Security Fund.

The amount of funds transferred from the LESF to the Employment Security Fund would be limited to the amount of fraud and improper payments identified by the audit conducted by the Council and any fraud or improper payments made between April 1, 2022 and December 31, 2022, less the \$250.0 million initially transferred to the Employment Security Fund.

In the event the transfer of federal coronavirus relief funds to the Employment Security Fund up to \$250.0 million

is not available to be made prior to July 15, 2021, 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. Should the second transfer of up to \$250.0 million not occur prior to July 15, 2022, the bill would stipulate that employers would pay contributions as set forth in the standard rate schedule for rate year 2023, and no solvency credit or adjustment would apply.

Federal UI Program Restrictions

The bill would specify that any federal UI program established in response to a pandemic is not to be continued using state contributions after the federal program ends.

Shared Work Program Modifications

The bill would require the Secretary of Labor to create and manage a promotional campaign for the Shared Work Unemployment Compensation Program (Program), which would include educational communications with other state agencies and stakeholders, including the Governor's office, legislators, workforce investment boards, labor unions, and local, regional, or state chambers of commerce.

The 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.

The bill would permit negative account employers to be approved for the Program if their most recent calculated reserve ratio has improved from the previous reporting year's reserve ratio.

The bill would clarify that 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.

Other Provisions

The bill would clarify that individuals of identity theft would not be liable for fraudulent UI claims made using their stolen identity.

The bill would amend 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. The bill would remove the prohibition.

The bill would revise 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.

The bill would require KDOL and the Department for Children and Families (DCF) to enter into a memorandum of understanding to 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.

The bill would provide 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. The bill would prohibit any expenditures other than the payment of principal and interest on such advances from the federal government.

The bill would require the Department of Labor to develop a form for claimants to establish their identity before a Kansas law enforcement officer. The form would be limited to one page in length and the Secretary of Labor would use those forms of identification identified by the I-9 list. The completion of the form and submission by the law enforcement agency would require the Secretary to presume the claimant's identity has been confirmed for purposes of UI law. Law enforcement officers, agencies and the state or any political subdivision of the state would receive immunity from civil or criminal liability related to the use of the form if the officer acts in good faith and exercises due care.

Conference Committee Action

The Conference Committee agreed to the Senate amendments to the bill and agreed to further amend Senate Sub. for Sub. for HB 2196 by:

- Changing the time for the initial report of the Council members from 30 days to 14 days of the first meeting of the Council;
- Eliminating the position of executive secretary of the Council and providing for the Council to be staffed by legislative agencies;
- Changing the crime for making certain fraudulent statements to obtain UI benefits from a level 2

felony to a level 5 felony and eliminating a provision excluding Kansas residents from the crime;

- Making certain changes to the “My Reemployment Plan” program;
- Requiring the Department of Labor to develop a form for use by law enforcement officers for the purpose of establishing the identity of UI claimants;
- Requiring input from the Council prior to the LCC extending the time for the IT modernization process;
- Prohibiting UI modernization contracts from being entered into prior to review and recommendations by the Council and review by the LCC;
- Providing for the chairperson of the Joint Committee on Information Technology to be a member of the procurement negotiating committee for any UI modernization purchases; and
- Specifying that \$250.0 million would be held in the LESF rather than a reserve account and providing for transfers from the LESF to the Employment Security Fund.

Background

HB 2196 was introduced by the House Committee on Commerce, Labor and Economic Development at the request of a representative of the Kansas Society for Human Resource Management.

House Committee on Commerce, Labor and Economic Development

The House Committee hearing was conducted over the course of three days. **Proponent** testimony was provided on February 9, 2021, by representatives of the Kansas Chamber of Commerce, the Kansas Society for Human Resource Management, the National Association of Professional Employer Organizations, Opportunity Solutions Project, the Overland Park Chamber of Commerce, and the Wichita Regional Chamber of Commerce. Proponents noted problems with unemployment insurance need to be addressed immediately, the unemployment system needs to be modernized, and employers need to be protected from detrimental effects of rampant unemployment fraud.

On February 10, 2021, representatives of KDOL provided neutral testimony on the bill. The conferees noted that some modernizations need to be implemented, but a number of provisions as written would be impractical for the Department to implement.

No other testimony was provided.

The House Committee adopted a number of amendments to the bill before recommending a substitute bill be created and recommended favorably for passage. The amendments included:

- Changing the effective date of the bill to be upon publication in the *Kansas Register*;
- Changing deadlines for the adoption of rules and regulations, the release of the initial report of the Council, and posting of UI trust fund information by KDOL;
- Adding language to make the technology and feature specifications lists in IT modernization portions of the bill non-exhaustive;

- Adding “automated Work Opportunity Tax Credit eligibility determination” to the list of tax performance system features;
- Clarifying language restricting restitution to apply to fraudulent or improperly paid claims;
- Providing for an audit of the UI system to be conducted by the Council;
- Temporarily increasing the membership of the Employment Security Board of Review;
- Adding provisions related to reemployment planning, work search services, and work refusal notification procedures;
- Adding a provision requiring a memorandum of understanding for data sharing related to cross-checking between KDOL and DCF;
- Modifying changes to the shared work program;
- Making a technical change to the provision related to petroleum landmen;
- Eliminating a provision requiring a 20-year look-back period for fraudulent charges waivers;
- Requiring three years of annual estimates of UI claims, premiums, and trust fund balances; and
- Providing for transfers of federal coronavirus relief aid to the Employment Security Fund and modifying provisions related to transfers from the State General Fund.

House Committee of the Whole

The House Committee of the Whole amended the bill to:

- Restructure Council membership, modify appointment procedure, and add a deadline for the initial meeting;
- Remove a provision that would eliminate the Employment Security Interest Assessment Fund, and modify current language providing therefor;
- Modify disqualification periods for UI benefits for fraudulent or misleading statements;
- Include labor unions as participants to be engaged by the shared work program promotional campaign outlined above; and
- Make technical changes to the bill.

[*Note:* The provisions for restructuring Council membership were part of an amendment adopted by the House Committee on Commerce, Labor and Economic Development that was not included in the Committee Report adopted by the House.]

Senate Committee on Commerce

The Senate Committee hearing was conducted over the course of two days. **Proponent** testimony was provided by representatives of the Kansas Chamber, Kansas State Council of the Society for Human Resource Management, National Association of Professional Employer Organizations, Overland Park Chamber of Commerce, and Unemployment Insurance Services. Written-only **proponent** testimony was provided by representatives of the Goodwill of Western Missouri and Eastern Kansas, Greater Kansas City Chamber of Commerce, Lenexa Chamber of Commerce, League of Kansas Municipalities, National Federation of Independent Business, Opportunity Solutions Project, Overland Park Chamber of Commerce, Syndeo, and Wichita Regional Chamber of Commerce. Written-only **proponent** testimony

was also provided by a representative of the Kansas Agricultural Retailers Association, Kansas Grain and Feed Association, and Renew Kansas Biofuels Association. The proponents indicated the bill would provide for a modern and secure unemployment insurance system while also implementing changes to the solvency adjustment rate table to be fairer for all Kansas businesses.

Opponent testimony was provided by representatives of the AFL-CIO and the Working Kansas Alliance. Written-only **opponent** testimony was provided by representatives of the Construction and General Laborers' Local Union 1290, Greater Kansas City Building and Construction Trades Council, International Brotherhood of Electrical Workers, and St. Louis – Kansas City Carpenters Regional Council. The opponents generally indicated they oppose the bill's changes to the number of eligible weeks for unemployment benefits, the lack of identity fraud protection for individuals, and fraud penalties that would be higher than those of most other states.

Neutral testimony was provided by a representative of KDOL. The neutral conferee provided an overview of the sections of the bill the KDOL supports, is neutral toward, and has concerns with.

The Senate Committee amended the bill to:

- Allow removal, reappointment, and substitution of Council members by the appointing authority at any time;
- Remove synergizing methods from the list of Council recommendations;
- Include additional reporting requirements for the Council;
- Alter the appointment process of the executive secretary and the position's duties;

- Require the initial report from Council to occur no later than 30 days after its initial meeting;
- Require biweekly reports by the Secretary of Labor or their designee on the status of the UI modernization project;
- Authorize the Council to determine the deadline for UI system modernization completion;
- Authorize the Council to extend the deadline for UI system modernization;
- Remove specific requirements for components, features, and benefits that the UI system must contain;
- Add requirements for components, features, and benefits of the UI system should the Council become inactive or dissolved;
- Alter required dates for trust fund computations and data;
- Revise the requirements regarding the “my reemployment plan” program to be a collaboration between the Secretary of Labor and the Secretary of Commerce;
- Remove SGF components of the monetary transfer into the UI Trust Fund;
- Amend disqualification penalties for fraudulent claims;
- Change the end date for initial claims to receive the maximum 26 weeks of benefits; and
- Clarify the employer window for job refusal is 10 business days.

Senate Committee of the Whole

The Senate Committee adopted the following amendments to the bill:

- Authorize the LCC, not the Council, to set and extend the deadline for UI system modification project;
- Clarify that victims of identify theft are not liable for fraudulent UI claims made with their stolen identity;
- Change the transfer of federal monies to the UI Trust Fund from one, \$450.0 million transfer to two payments of \$250.0 million; and
- Create a new felony offense for individuals living in other states or nations who commit unemployment insurance fraud using another individual's identity without their consent.

Fiscal Information

According to the amended 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 and the bill would require \$688,660 and 9.0 FTE positions to staff the Council, perform fraud research, and serve the revised shared work program.

The Department of Commerce estimates the bill would cost \$94,300 for FY 2022 to implement the revised work skills training program and developing a digital interface between the Department of Labor and the Department of Commerce.

The bill would transfer \$450.0 million from available federal funds to the UI Trust Fund. KDOL estimates total fraud at close to \$300.0 million and the Division of Post Audit provided a preliminary estimate of \$600.0 million.

Of the total total fiscal effect of the bill, approximately \$37.0 million for UI IT modernization is included in *The FY 2022 Governor's Budget Report*. Other provisions of the bill are not reflected in the Governor's budget.

Unemployment compensation Department of Labor; Department of Commerce; unemployment insurance; UI Trust Fund; information technology; state finances; modernization; benefits; fraud protection; shared work program; identity theft

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