

88

KANSAS OFFICE of
REVISOR of STATUTES

LEGISLATURE of THE STATE of KANSAS
Legislative Attorneys transforming ideas into legislation.

300 SW TENTH AVENUE ▪ SUITE 24-E ▪ TOPEKA, KS 66612 ▪ (785) 296-2321

MEMORANDUM

To: Chairperson Erickson and Senate Commerce Committee
From: Office of Revisor of Statutes
Date: March 6, 2024
Subject: SUB HB 2570

SUB HB 2570 Bill Outline with section and page number references:

Note that the additions to HB 2570 made in SUB HB 2570 were negotiated by the primary stakeholders.

Passed out of the House 120 to 0.

I. New Definition for "benefit year".

Section 1, amending K.S.A. 2023 Supp. 44-703, pg. 3.

"Benefit year" always begins on a Sunday. (Pg. 3).

This was a provision in HB 2401.

II. Taxable Wage Base (Definition of "Wages")

Section 1 amending K.S.A. 2023 Supp. 44-703, pgs. 15-17.

As introduced: The current taxable wage base for purposes of assessing contributions remains \$14,000 through 2025. For 2026 and thereafter to be determined for all employers based on a percentage of the remuneration paid in excess of the specified percentage of the statewide average annual wage for the previous calendar year:

2026: 30% | 2027: 35% | 2028: 40% | 2029: 45% | 2030: 50% | 2031: 55% | 2032: 60%

There is an exception to accommodate changes in federal law.

The Taxable Wage Base calculation was changed in **Sub HB 2570**:
Remains \$14,000 through 2025. Calendar years 2026 through 2030, 50% of remuneration in excess of the State Average Annual Wage, then for calendar year 2031 and thereafter, 50% if the specified contribution rate schedules are in effect and 45% if other specified contribution rate schedules are in effect. (Pg. 16.)

III. New “temporary unemployment” Definition

Section 1 amending K.S.A. 2023 Supp. 44-703, pgs. 23.

As introduced, set a standard maximum of 4 weeks of temporary unemployment benefits and provided for extensions of temporary unemployment to be granted by the secretary pursuant to certain conditions and requirements. (Pg. 23) See below. A new definition for “temporary unemployment” was also included in HB 2401.

Substitute for HB2570 changed the maximum number of weeks from 4 to 8 in the new definition of temporary unemployment, not including any extension. In addition, the provisions governing extensions of temporary unemployment by the secretary were changed. See below.

IV. New statutory definitions for Statewide Average Annual Wage and Statewide Average Weekly Wage

Section 1, amending K.S.A. 2023 Supp. 44-703, pg. 23.

Statewide average annual wage or (SAAW) (Pg. 23.)

Statewide average weekly wage (SAWW) (Pg. 23.)

V. New Procedure for Determining the Maximum Weekly Benefit Amount

Section 2, amending K.S.A. 44-704, pg. 24-25.

New definition for “statewide average weekly wage” and “statewide average annual wage” used in amended language for determining the maximum weekly benefit amount.

VI. Temporary Unemployment to be included in Determining the Maximum Weeks of Total Unemployment Benefits Allowed a Claimant Based on the Kansas Unemployment Rate

Sec. 2, K.S.A. 44-704, pg. 27.

Under current law, the maximum number of benefit weeks a claimant may receive in a benefit year is based on the Kansas unemployment rate. This **new provision in Sub HB 2570** clarifies that the maximum unemployment benefit weeks so determined apply to the combination of any regular unemployment benefit weeks and any temporary unemployment benefit weeks for the benefit year.

VII. New UI Information Technology System Must Provide for an “Audit Process” to Allow Employers to Report Claimant Compliance with Work Search Requirements (e.g. “ghosting”) or with the My Reemployment Plan

Section 3, amending K.S.A. 44-705, pg. 29.

This provision was included in HB 2401.

As introduced, the audit process was to be completed when the new UI information technology system was completed.

Sub HB 2570 changed the required implementation date from upon the completion of the new unemployment insurance information technology system to a set date of January 1, 2026. (Pg. 29.)

This provision also requires notice of compliance reporting options to employers after new UI system is implemented.

Section 3, amending K.S.A. 44-705, pg. 30.

Notice is to be provided in the department's annual summary of benefit charges and in rate notices.

VIII. New Temporary Unemployment Benefit (Work Share) for School Bus Drivers

Sec. 4, K.S.A. 44-706, pg. 43. (Additional section added in Sub HB 2570)

New in Sub HB 2570, the amendment provides that school bus drivers may be eligible for short-term compensation (workshare) pursuant to K.S.A. 44-757 (Section 10.) The workshare provisions in current law would apply. This provision does not make school bus drivers eligible for regular unemployment benefits.

Sec. 10, K.S.A. 44-757, pg. 91.

The amendment to the workshare statute clarifies that the statutory restriction in current law on implementation of workshare to subsidize seasonal employers during the off season does not apply to a shared work plan implemented for school bus drivers.

IX. Employment Security Board of Review candidate qualifications.

HB 2570 Section 4, amending K.S.A. 44-709, pgs. 33-34.

As introduced: At least 10 years HR direct experience with HR processes, policies, guidelines or employee relations, at least 7 years direct experience with employment security laws and processes and knowledge of unemployment and labor laws.

Sub HB 2570 Sec. 5, amending K.S.A. 44-709, pg. 48

Sub HB 2570 changed the candidate qualifications to at least 8 years of direct experience with HR, instead of 10, and at least 3 years direct experience with employment security law, instead of 7.

Note: Discretion was provided to the temporary employment security review board in appointment terms in 2021 HB 2196. (Sec. 4, K.S.A. 44-709(f), pgs. 33.

X. Employer Charge Notices and Restriction on Charging Less than \$100

A. Issuance changed from annually to quarterly.

Section 6, amending K.S.A. 44-710, pg. 52.

B. Restriction on charging employers if charges are \$100 or less removed.

Section 6, amending K.S.A. 44-710, pg. 54.

XI. One-time Forgiveness of Negative Reserve Account Balances of August 21, 2025, for Active or Inactive Negative Account Balance Employers

Sec. 7, amending K.S.A. 44-710a, pg. 63.

An additional amendment made in Sub HB 2570, this provision directs the secretary of labor to reset to 0 the negative reserve account balances of negative account balance employers as of August 21, 2025. This negative reserve account balance write-off is to occur on or after August 21, 2025, and no later than August 31, 2025.

XII. Abolishment of the Employment Security Interest Assessment Fund, created to pay interest on the federal loans for the Employment Security Trust Fund acquired due to the Great Recession. (Created in 2011 SB 77).

Section 7, amending K.S.A. 2023 Supp. 44-710a, pg. 63-64, 74-75.

Sec. 9, amending K.S.A. 44-717, pgs. 78 et seq.

In the original bill, standard boilerplate language for closing out a fund provided that all liabilities would be transferred to the employment security trust fund. To address federal conformity issues, **Sub HB 2570** changed this to provide that all liabilities be transferred to the state general fund. (Pg. 75.) This is standard language used by the Revisor's Office when abolishing a fund and is included here for purposes of avoiding any future issues. Note that the Department of Labor has advised that the employment security interest assessment fund has no liabilities.

Section 9, starting at page 78, provides for penalties, interest, collection and enforcement procedures for past-due reports, past-due contributions, payments in lieu of contributions and benefit cost payments. Current law also includes interest assessments for the employment security interest assessment fund, abolished by the bill to that list. Amendments to this section remove references to such interest assessments. This section is also amended throughout to update the language and these changes are not intended to be substantive.

XIII. KDOL Required to Annually Publish SUTA Tax Rate and Contribution Rate Tables

Section 7, amending K.S.A. 2023 Supp. 44-710a, pg. 64.

As introduced, this provision required the secretary to publish contribution rate tables showing the maximum annual cost to contributing rated employers per employee for the previous, current and ensuing rate year. This information was to be published annually, no less than 120 days prior to the end of the calendar year.

Sub HB 2570 changed the publish date from no less than 120 days prior to the end of the calendar year to no less than 30 days prior to the end of the calendar year.

XIV. Changes to the Trust Fund Control Tables and Employer Contribution Rate Tables

(See presentation by Mr. Hayes 1/24.)

A. Adjustment to the Trust Fund Control Tables in conjunction with the indexed Taxable Wage Base (For Taxable Wage Base changes, See below).

Section 7, amending K.S.A. 2023 Supp. 44-710a, pgs. 65-66.

B. Changes to Employer Contribution Rate Tables

Section 7, amending K.S.A. 2023 Supp. 44-710a, pgs. 67-72.

1. Creates a new positive rated rate group, Rate Group 0 with a 0.00% SUTA tax rate

2. Only for rated employers with a Reserve Ratio greater than or equal to 100%.
3. Substantially reduces current SUTA tax rates and increases each rate group by 0.10% instead of the current 0.20%.
4. Aligns the highest positive rated employer rate group tax rate with the current “New Employer” rate of 2.70%

Rate Groups 0 – 27: Change tax rate increment from 0.20% to 0.10%

Rate Group 0: 0.00% Tax Rate

Rate Group 1: 0.10% Tax Rate

Rate Group 2: 0.20% Tax Rate...

Rate Group 27: 2.70% Tax Rate

5. Negative rate groups: Removes solvency and credit adjustments and provides static SUTA tax rates.

XV. Delay of Deadline for the Required Formation of a New Account and Calculation of a New Contribution Rate following Certain Business Acquisitions

Section 7, amending K.S.A. 2023 Supp. 44-710a, pg. 73.

This provision was included in HB 2401.

XVI. SUTA Voluntary Contributions Deadline Extended from 30 days after Mail Date of the Rate Notice to 90 days after such Mail Date

Section 7, amending K.S.A. 2023 Supp. 44-710a, pg. 74.

XVII. KS UI Weekly Benefits to be Suspended if any Federal UI Benefit Payments to a Claimant are Equal To or Greater Than a Claimant’s Calculated Weekly Benefit Amount

Sec. 8, amending K.S.A. 44-710b, pgs. 77-78.

This provision, directing the secretary to review benefit claims to determine whether any claimant is eligible for benefits pursuant to any federal unemployment program, was in the **bill as introduced** at section 7, pg. 63. Under this prior language, the secretary was to suspend state benefits if the claimant was eligible for federal benefits.

Sub HB 2570 at section 8, pgs. 77-78, amended the provision to provide that the suspension would only be in effect while the individual is receiving the federal benefits and would terminate upon the exhaustion of such federal benefits. The restriction would not apply to any federal benefits that are to be paid in addition to the state weekly benefits.

XVIII. Electronic Report Filing Required for Employers with 25 or more Employees.

Sec. 9, amending K.S.A. 44-717, pgs. 87.

This provision was included in HB 2401

XIX. Extension of the Unemployment Compensation Modernization and Improvement Council Sunset Date to 12/31/2026.

Sec. 11, amending K.S.A. 44-771, pg. 94.

XX. Confirmation of the Legislative Coordinating Council's Authority to Extend the New UI Information Technology System Implementation Deadlines and Clarification of the Procedure.

Sec. 12, K.S.A. 44-772, pg. 98.

This provision was included in HB 2401.

XXI. Additional Annual Data Reporting requirements by KDOL

Sec. 13, amending K.S.A. 44-774, pgs. 100-01.

As introduced, the bill added to current law additional data that the secretary is to report annually, including certain trust fund data pertaining to terminated and inactive accounts, certain statewide wage data and certain information about contributing negative rated employers. (HB 2570, *Sec. 11, amending K.S.A. 44-774, pgs. 80-81.*)

Sub HB 2570 amended a portion of these provisions by requiring an annual “certification memorandum” with respect to the negative rated employer data. The certification memorandum is to be submitted to the chairpersons, vice chairpersons and ranking minority members of the senate and house committees to which legislation pertaining to the employment security law is customarily referred, the president of the senate, the speaker of the house of representatives, governor and legislative coordinating council. The certification memorandum is to contain the information as provided in the introduced bill pertaining to certain contributing negative rated employers with the change that instead of requiring an employer’s account ID, the memorandum would include an employer identification number assigned by the secretary of labor. Sub HB 2570, *Sec. 13, amending K.S.A. 44-774, pgs. 100-01.*

XXII. Definition of and Extensions to Temporary Unemployment

A. The new definition of temporary unemployment included a standard maximum number of weeks for all contributing, rated employers.

As introduced:

The maximum number of weeks was set at 4, plus extensions as provided in the bill. (See B. below.)

HB 2750, Section 1 amending K.S.A. 2023 Supp. 44-703, pg. 23.

Sub HB 2750 provides essentially the same new definition but changed the maximum number of weeks of temporary unemployment to 8. *Sub HB 2750, Section 1 amending K.S.A. 2023 Supp. 44-703, pg. 23.*

B. Additional Extensions to Temporary Unemployment

As introduced, the bill provided the secretary could approve extensions of temporary unemployment requested by employers that met certain requirements, including a reporting

requirement, beyond the initial 4 weeks of additional 2 to 4 week increments up to the maximum permitted as follows:

1. Positive rated employers, up to 4 additional weeks;
2. negative rated employers, up to 4 additional weeks if KDOL determines that the employer's annual Reserve Ratio calculation has improved by 0.10% between the two most recent rate notices; and
3. highway, street, and bridge construction classified employers, up to 12 additional weeks regardless of positive/negative account balance.

HB 2570, Sec. 12, amending K.S.A. 2023 Supp. 44-775, pgs. 82-83.

Sub HB 2570 amended this provision to permit only specified employers to request only one extension for an employee of 8 additional weeks. Eligible employers included those engaged in certain public construction as provided in the bill as introduced and employers engaged in ready-mix concrete production and distribution. The requirements of an employer for approval by the secretary of a request remained the same except that the requirement for negative rated employers to show improvement in the employer's reserve ratio calculation was dropped. Additional weeks were limited to 8, for a grand total of temporary unemployment of 16 weeks for the specified employers.

Sec. 14, amending K.S.A. 2023 Supp. 44-775, pgs. 102-03.

XXIII. My Reemployment Plan and the new Temporary Unemployment Definition and Extensions Language Aligned

Sec. 14, amending K.S.A. 2023 Supp. 44-775, pg. 102.

If enacted, the bill is effective on July 1, 2024.