

**Testimony before House Commerce, Labor & Economic Development
House Bill 2261
Presented by Eric Stafford
Monday, February 16, 2015**

Mister Chairman and members of the committee thank you for the opportunity to testify today in support of House Bill 2261. HB 2261 is the product of several years of discussion, and legislative reforms and we are confident this is the final piece of the puzzle to restore fairness and predictability to employers in the unemployment insurance system.

In 2013, our written testimony directed the committee's attention to the recent passage of HB 2676 in 2010, and SB 77 in 2011. At that time, we wrote *"These steps, while important, have lessened the financial impact felt by employers, but were seen as short-term fixes to the fund... We must also get back to a system which is based on experience rating, one in which rates reflect an employer's usage of the system."*

We believe the last piece left to restore our system to one which reflects an employer's experience is HB 2261. In 2013, the Kansas Department of Labor (KDOL) recommended an increase in the taxable wage base from \$8,000 to \$16,000. Ultimately, we ended up with a phase-in from \$12,000 in 2015 to \$14,000 in 2016. The purpose of this increase was to put more responsibility on the negative balance employers who have historically paid more in benefits than what they have paid in taxes. The increase in the taxable wage base was the first step in restoring fairness and a system which is based on experience.

For the past 6 years, much of the outcry from the business community has come from the positive balance employers who saw their contribution rates skyrocket. Because of several factors (no wage base increase for 30+ years, indexed benefits since 1996, recession depleting the trust fund), the UI system in Kansas had become compressed, experience ratings were eroded, and the positive balance employers were footing the bill for the shortfall of the fund. From 2010 through 2014, 19 of the 51 positive rate groups (37%) were capped at the 5.40% contribution rate. Still in 2015, five of the 51 positive rate groups are capped at the 5.40% max rate.

Let me clearly state, all of the reforms passed by this legislature in recent years were important and positive changes. But some of them were in fact short-term fixes. The 2013 reforms were the most significant structural changes seen in recent years, but most of those changes focused on the integrity and eligibility of benefits versus the employer tax structure. HB 2105 strengthened deficiencies in the system (severance pay, holiday pay, new employer tax rate). The increase in the wage base from HB 2105 was a key component in restoring meaning to the employer's experience rating. However, it is just one part of what we have been ultimately seeking. HB 2261 completes our task by implementing "fixed" tax rates and rate tables into statute so employers can have predictability.

The Kansas Chamber, with headquarters in Topeka, is the leading statewide pro-business advocacy group moving Kansas towards becoming the best state in America to do business. The Chamber represents small, medium and large employers all across Kansas.



Based on the *2014 Highlights of State Unemployment Compensation Laws* prepared by UWC - Strategic Services on Unemployment & Workers' Compensation, Kansas is one of 12 states or territories which utilize the "arrayed" system. This means, depending on the level of the trust fund, the rate tables reset every year. Currently, 41 states or territories use the "fixed" system like what we are proposing in HB 2261. Essentially, we have created new rate tables which will go into statute, so the tax rates remain fixed and do not reset each year. (As the trust fund depleted during the 2008-2009 recession, positive balance employer contribution rates spiked which forced the passage of HB 2676 capping rates- essentially creating a "fixed" system regard contribution rates, yet the reserve ratio thresholds still reset from 2010 through 2014.)

The fixed system is something the business community has wanted to study for the past few years; however we needed the data from KDOL to run the scenarios of if such a plan could be sustainable. At the conclusion of the 2014 legislative session, the Kansas Chamber commissioned a UI Task Group to study this plan and work toward a proposal for the 2015 legislative session. HB 2261 is the product of that working group thanks to significant input from the business community and assistance from KDOL in providing needed data to run projections.

Switching to a new tax structure brings many questions, and justified scrutiny. What happens when the trust fund is depleted? What happens when the trust fund reaches sufficient levels? Starting on the bottom of page 15 of the bill, you'll notice new "fixed" reserve ratio limits for the new rate groups. Under existing law, there are 51 positive balance rate groups. To simplify the tax tables, we are cutting that down to 27 positive balance rate groups that will see .2% incremental increases in their tax rate, stopping at a 5.4% maximum rate for rate group 27. To qualify for the top rate group, an employer must have a reserve ratio of at least 18.590.

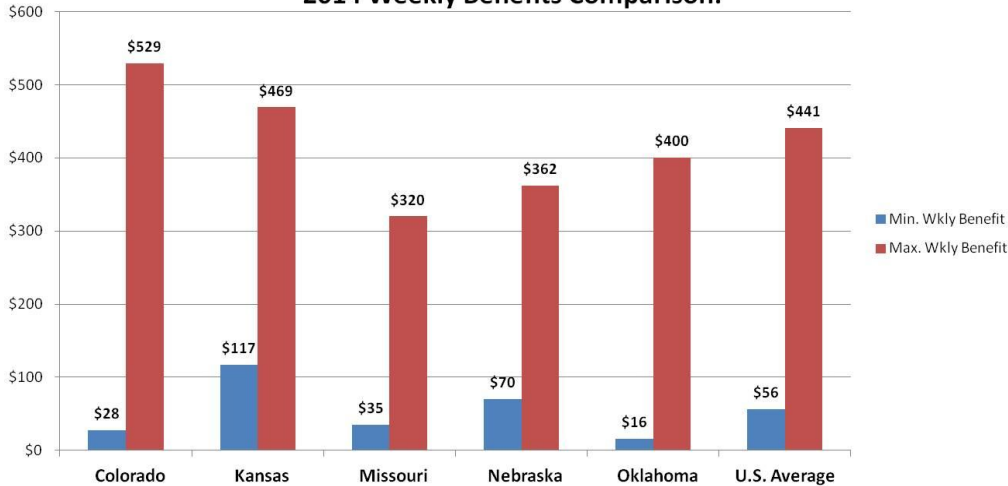
When the trust fund balance falls (see Fund Control Table on page 15 of the bill), solvency adjustment surcharges will be implemented on all employers, positive and negative. The same surcharge amount will apply to all rated employers. When the trust fund reaches solvent levels, solvency adjustment credits will be applied to all *positive* balance employers so the trust fund still draws in revenue, but at a reduced rate.

It is important to note the specifics of HB 2261 were not the same variable as those included in our initial projections. The reserve ratio levels the UI work group originally set for the top rate group, and solvency adjustments simply did not yield sustainable projections based on historical values and trends, therefore we had to adjust upward to achieve realistic and sustainable projections. Initially, we were hoping for a 13-14% reserve ratio to qualify for the top rate group, however, that was not sustainable, so we moved upward until we found the 18.590% level resulted in sufficient trust fund balance projections. Our goal is to operate most years in a manner in which solvency adjustment (surcharges and credits) are not applied. Only in extreme cases will either be applied.

We also have looked at projections of annual revenue into the trust fund. We have no incentive to create a system which puts Kansas employers at risk of constant surcharges due to insufficient revenue for the trust fund. The UI work group has made the decision that we do not need to build up our trust fund as fast as it currently is projected to grow. That is a policy decision of this committee and the legislature. The Kansas employment security trust fund is projected to exceed \$700 million within 28 months. That is \$700 million taken out of the Kansas economy, taken away from capital investment. We would prefer to see a steady but slower increase in the trust fund balance.

One final piece to mention is the one portion of HB 2261 dealing with benefits. We are proposing eliminating the indexing of maximum weekly benefits which are currently tied to the state's average weekly wage. Indexing of benefits was implemented in 1996, and has resulted in a maximum benefit amount that greatly exceeds all but one of our neighboring states. The current maximum weekly benefit amount is \$474. We are proposing placing that number in statute and requiring the legislature review the maximum benefit amount and taxable wage base every three years.

2014 Weekly Benefits Comparison:



In conclusion, the UI work group put in many hours determining the best proposal for our state; one that adequately funds necessary benefits without unreasonably taxing Kansas employers. Thank you for your consideration of House Bill 2261 and we ask for your support of this important piece of legislation. I would be happy to answer any questions you may have.

House Bill 2261 Supporters

**Kansas Chamber of Commerce
National Federation of Independent Business (NFIB)
The Kansas Council for the Society of Human Resource Management (KS SHRM)
Greater KC Chamber of Commerce**

**Greater Topeka Chamber of Commerce
Lenexa Chamber of Commerce
National Federation of Independent Business
Overland Park Chamber of Commerce
Wichita Independent Business Association
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