

Testimony before the House Commerce Committee

Senate Bill 154

Presented by Eric Stafford, Vice President of Government Affairs

Friday, March 13, 2015

Mister Chairman and members of the committee, my name is Eric Stafford, Vice President of Government Affairs for the Kansas Chamber of Commerce. Thank you for the opportunity to testify today in support of Senate Bill 154. SB 154 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 SB 154. 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. SB 154 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 SB 154. 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. SB 154 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.

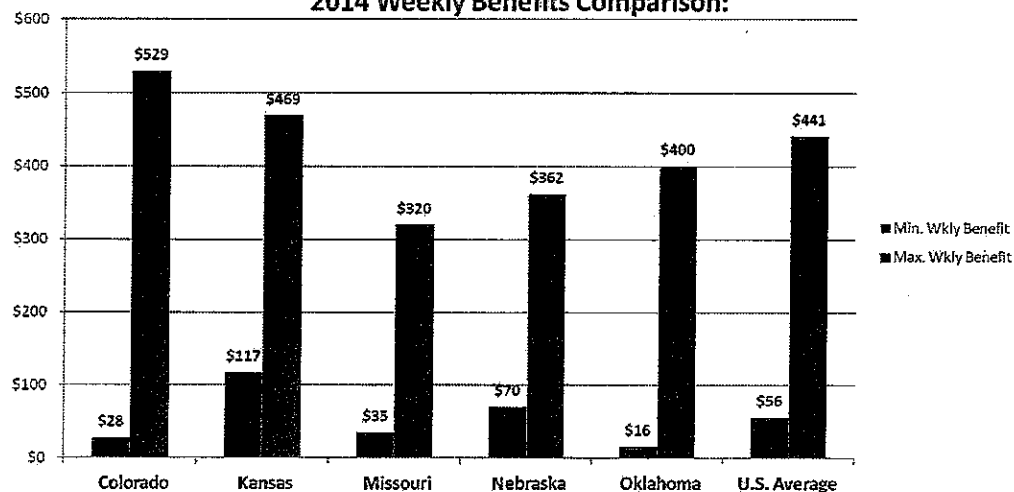
When the trust fund balance falls (see Fund Control Table on page 15 of the bill), solvency adjustment surcharges will be implemented on all employers, positive and negative. The same surcharge amount will apply to all rated employers. When the trust fund reaches solvent levels, solvency adjustment credits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

There were two areas of disagreement between our coalition and the Department of Labor on SB 154 as it was introduced. Those two areas were the reserve ratio levels and the trust fund controls previously mentioned. In an effort to compromise, we asked the Senate Committee to maintain our Reserve Ratio thresholds of an 18.590% for the top group and we would accept the DOL proposal for the trust fund controls on the trust fund balance in which the surcharges and credits kick in.

One issue that was brought to our attention from a constituent of Representative Don Hineman dealing with how owners of LLC's are treated under current law. There's an exemption in place (copy is attached to my testimony) which allows owners of LLC's from having to pay UI taxes on themselves. However, as this individual pointed out, this exemption on the state level forces the owner to pay full UI taxes on the federal level with no credits (a rate in excess of 8%). Taxing LLC owners on the state (SUTA) level will restore the federal (FUTA) credit. We would welcome an amendment addressing this concern addressing only the owner(s) of the LLC.

One final piece to mention is the one portion of SB 154 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 Senate Bill 154 and we ask for your support of this important piece of legislation. I would be happy to answer any questions you may have.

Senate Bill 154 Supporters

Greater KC Chamber of Commerce
Greater Topeka Chamber of Commerce
Lenexa Chamber of Commerce
Kansas Chamber of Commerce
Kansas Council for the Society of Human Resource Management (KS SHRM)
Kansas Bankers Association

Ash Grove Cement Company
Cerner Corporation
Core First Bank & Trust
Data Center, Inc.
Davis Moore Auto Group
ESB Financial
GLMV Architecture, Inc.
HCA-Wesley Medical Center
iSi Environmental
LSI Staffing

Kansas Beer Wholesalers Association
Kansas Restaurant & Hospitality Association
National Federation of Independent Business (NFIB)
Overland Park Chamber of Commerce
Wichita Independent Business Association
Wichita Metro Chamber of Commerce

Key Staffing
Menu Foods Midwest
National Screening Bureau
Premier Employment Solutions
R-Tech Tool & Machine, Inc.
Spirit AeroSystems
The Arnold Group
The LDF Companies
Unemployment Insurance Services
Via Christi Health

KS Unemployment Insurance Reform Bill Summary Information

Kansas is uncompetitive when compared to other states:

Summary Comparison for 7 of 44 States w/ Fixed System						
Contribution Rates & Est. Contributions for Rated Employers Only			Contribution Rates & Amount per EE			
State	# of Rate Schedules	Reserve Ratio for Best Rate Group *	# of Rate Groups	Min. Contribution Rate & Amount per EE	Max. Contribution Rate & Amount per EE	Variable Wage Base
CA	8	20.000%	38	0.10%	\$7.00	\$434.00
DC	5	10.000%	17	0.10%	\$9.00	\$666.00
LA	6	9.500%	62	0.10%	\$7.70	\$477.40
MO	6	15.000%	38	0.00%	\$0.00	\$1,014.00
NM	7	10.000%	15	0.03%	\$7.02	\$1,263.60
TN	6	20.000%	24	0.01%	\$0.90	\$900.00
WV	5	18.000%	15	0.00%	\$0.00	\$540.00

* KS: 2015 RR for Best Rate Group is 33.063% ; 2000-2015 Average is 29.520%

Trust Fund Controls and Solvency Adjustments in HB 2261 and original SB 154

Rate Schedules	Trust Fund Control (TF Balance)			KS UnWork Group Fixed System:				Total Calendar Year Est. Contributions***
	Solvency Adjustment (%)			Contribution Rates & Est. Total Contributions				
	Lower	Upper		Min. Contribution Rate & Amount per EE	Max. Contribution Rate & Amount per EE			
1	-\$7,090,777,141.23	\$141,815,542.81	1.60	1.80%	\$252	9.20%	\$463,682,903	
2	\$141,815,542.82	\$212,723,314.22	1.40	1.60%	\$224	9.00%	\$436,877,746	
3	\$212,723,314.24	\$319,084,971.34	1.20	1.40%	\$196	8.80%	\$410,072,589	
4	\$319,084,971.36	\$425,446,628.46	1.00	1.20%	\$168	8.60%	\$383,267,432	
5	\$425,446,628.47	\$709,077,714.11	0.00	0.20%	\$28	7.60%	\$249,241,647	
6	\$709,077,714.12	\$815,439,371.23	-0.20	0.00%	\$0	7.60%	\$226,267,687	
7	\$815,439,371.24	\$957,254,914.06	-0.40	0.00%	\$0	7.60%	\$219,799,955	
8	\$957,254,914.07	\$7,090,777,141.23	-0.60	0.00%	\$0	7.60%	\$213,695,771	

*** New/Ineligible Employers account for \$18M-\$24M annually in past years. \$22M is used for the Total Calendar Year Est. Contributions for each rate schedule.

Alternative Trust Fund Controls and Solvency Adjustments offered by KDOL

Rate Schedules	Trust Fund Control (TF Balance)			KDOL Fixed System:				
	Solvency Adjustment			Contribution Rates & Est. Total Contributions				
	Lower	Upper	(%)	27.000% Reserve Ratio	Min. Amt. per EE	Max. Rate	Max. Amt. per EE	Total Calendar Year Est. Contributions***
1	-\$7,090,777,141.23	\$141,815,542.81	2.00	2.20%	\$308	10.00%	\$1,400	\$615,636,176
2	\$141,815,542.82	\$319,084,971.34	1.40	1.80%	\$224	9.40%	\$1,316	\$535,220,705
3	\$319,084,971.36	\$425,446,628.46	1.00	1.20%	\$168	9.00%	\$1,260	\$481,610,391
4	\$425,446,628.47	\$531,808,285.58	0.40	0.80%	\$84	8.40%	\$1,176	\$401,194,919
5	\$531,808,285.59	\$815,439,371.23	0.00	0.20%	\$28	8.00%	\$1,120	\$347,584,605
6	\$815,439,371.24	\$921,801,028.35	-0.20	0.00%	\$0	8.00%	\$1,120	\$324,610,645
7	\$921,801,028.36	\$1,063,616,571.18	-0.40	0.00%	\$0	8.00%	\$1,120	\$303,078,277
8	\$1,063,616,571.19	\$7,090,777,141.23	-1.00	0.00%	\$0	8.00%	\$1,120	\$247,329,539

*** New/Ineligible Employers account for \$18M-\$24M annually in past years. \$22M is used for the Total Calendar Year Est. Contributions for each rate schedule.

Amended SB 154 Trust Fund Controls & Solvency Adjustment Summary

Rate Schedule(s)	Trust Fund Control (TF Balance)		KS UT Work Group Fixed System: Contribution Rates & Est. Total Contributions			
	Lower	Upper	Solvency Adjustment (%)	M/in. Contribution Rate & Amount per EE	M/in. Contribution Rate & Amount per EE	Total Calendar Year Est. Contributions***
1	\$7,090,777,141.23	\$141,815,542.81	1.60	1.80%	9.20%	\$463,679,462
2	\$141,815,542.82	\$319,084,971.34	1.40	1.60%	9.00%	\$436,874,305
3	\$319,084,971.36	\$425,446,628.46	1.20	1.40%	8.80%	\$410,069,148
4	\$425,446,628.47	\$531,808,285.58	1.00	1.20%	8.60%	\$383,263,991
5	\$531,808,285.59	\$815,439,371.23	0.00	0.20%	7.60%	\$249,238,206
6	\$815,439,371.24	\$7,090,777,141.23	-0.50	0.00%	7.60%	\$216,744,422

*** New/Ineligible Employers account for \$18M-\$24M annually in past years. \$22M is used for the Total Calendar Year Est. Contributions for each rate schedule.

Tax Impact on Business: Amended SB 154 offers Parity and Predictability to ERs

Rate Schedule	Estimated Annual Cost to ERs (2014-2015)							
	Co. A: 20 EEs	Co. B: 100 EEs	Co. C: 500 EEs	Co. D: 1,000 EEs	Co. A: 20 EEs	Co. B: 100 EEs	Co. C: 500 EEs	Co. D: 1,000 EEs
1	\$6,720	\$33,600	\$168,000	\$336,000	\$16,240	\$81,200	\$406,000	\$812,000
2	\$6,160	\$30,800	\$154,000	\$308,000	\$15,680	\$78,400	\$392,000	\$784,000
3	\$5,600	\$28,000	\$140,000	\$280,000	\$15,120	\$75,600	\$378,000	\$756,000
4	\$5,040	\$25,200	\$126,000	\$252,000	\$14,560	\$72,800	\$364,000	\$728,000
5	\$2,240	\$11,200	\$56,000	\$112,000	\$11,760	\$58,800	\$294,000	\$588,000
6	\$840	\$4,200	\$21,000	\$42,000	\$10,360	\$51,800	\$259,000	\$518,000

1.60%
1.40%
1.20%
1.00%
0.00%
-0.50%

KDOL TFCs / KS UI Solv Surch & 18.590% RR - Standard Rate Schedule & Employer Impact w/ Schedule 2

Standard Rate Schedule:				"Fixed"	
Schedule 5				Reserve Ratio Limits	
Rate Group	Standard Rate	\$UIA Tax per EE		Lower RR Limit	Upper RR Limit
1	0.20%	\$28		18.590	1,000,000
2	0.40%	\$56		17.875	18.589
3	0.60%	\$84		17.160	17.874
4	0.80%	\$112		16.445	17.159
5	1.00%	\$140		15.730	16.444
6	1.20%	\$168		15.015	15.729
7	1.40%	\$196		14.300	15.014
8	1.60%	\$224		13.585	14.299
9	1.80%	\$252		12.870	13.584
10	2.00%	\$280		12.155	12.869
11	2.20%	\$308		11.440	12.154
12	2.40%	\$336		10.725	11.439
13	2.60%	\$364		10.010	10.724
14	2.80%	\$392		9.295	10.009
15	3.00%	\$420		8.580	9.294
16	3.20%	\$448		7.865	8.579
17	3.40%	\$476		7.150	7.864
18	3.60%	\$504		6.435	7.149
19	3.80%	\$532		5.720	6.434
20	4.00%	\$560		5.005	5.719
21	4.20%	\$588		4.290	5.004
22	4.40%	\$616		3.575	4.289
23	4.60%	\$644		2.860	3.574
24	4.80%	\$672		2.145	2.859
25	5.00%	\$700		1.430	2.144
26	5.20%	\$728		0.715	1.429
27	5.40%	\$756		0.000	0.714

Rate Group	Standard Rate	\$UIA Tax per EE	Lower RR Limit	Upper RR Limit
N1	5.60%	\$784	-0.714	-0.001
N2	5.80%	\$812	-1.429	-0.715
N3	6.00%	\$840	-2.144	-1.430
N4	6.20%	\$868	-2.859	-2.145
N5	6.40%	\$896	-3.574	-2.860
N6	6.60%	\$924	-4.289	-3.575
N7	6.80%	\$952	-5.004	-4.290
N8	7.00%	\$980	-5.719	-5.005
N9	7.20%	\$1,008	-6.434	-5.720
N10	7.40%	\$1,036	-7.149	-6.435
N11	7.60%	\$1,064	-1,000,000,000	-7.150

Rate Schedule		Estimated Total
1		\$463,679,462
2		\$436,874,305
3		\$410,069,148
4		\$383,263,991
5		\$249,238,206
6		\$216,744,422

Schedule 2 - Employer Distribution Summary by Rate Group									
Rate Groups	Rated Employers		Contributions		Taxable Wages				
	#	%	#	%	#	%			
1	35,497	70.77%	\$13,049,826	31.83%	\$8,253,114,122	61.58%			
2	692	1.38%	\$3,271,932	0.79%	\$181,773,989	1.36%			
3	644	1.28%	\$4,763,285	1.15%	\$238,164,243	1.78%			
4	589	1.17%	\$5,000,290	1.21%	\$227,285,910	1.70%			
5	525	1.05%	\$8,556,989	2.06%	\$356,541,212	2.66%			
6	435	0.87%	\$3,909,669	0.94%	\$150,371,882	1.12%			
7	426	0.85%	\$5,167,679	1.25%	\$184,559,973	1.38%			
8	399	0.80%	\$5,023,262	1.21%	\$167,442,070	1.25%			
9	375	0.75%	\$4,905,529	1.18%	\$153,297,768	1.14%			
10	343	0.68%	\$3,150,845	0.76%	\$92,671,913	0.69%			
11	335	0.67%	\$4,837,292	1.17%	\$134,369,225	1.00%			
12	336	0.67%	\$6,226,697	1.50%	\$163,860,457	1.22%			
13	310	0.62%	\$3,520,357	0.85%	\$88,008,932	0.66%			
14	274	0.55%	\$5,366,656	1.29%	\$127,777,529	0.95%			
15	234	0.47%	\$3,946,901	0.95%	\$89,702,304	0.67%			
16	259	0.52%	\$3,363,876	0.81%	\$73,127,735	0.55%			
17	254	0.51%	\$4,060,238	0.98%	\$84,588,282	0.63%			
18	230	0.46%	\$4,754,136	1.15%	\$95,082,728	0.71%			
19	231	0.46%	\$4,200,137	1.01%	\$80,771,871	0.60%			
20	212	0.42%	\$4,991,300	1.20%	\$92,431,486	0.69%			
21	212	0.42%	\$4,856,182	1.17%	\$86,717,538	0.65%			
22	193	0.38%	\$3,712,460	0.89%	\$64,007,930	0.48%			
23	183	0.36%	\$3,796,226	0.92%	\$63,270,434	0.47%			
24	179	0.36%	\$3,960,297	0.95%	\$63,875,754	0.48%			
25	183	0.36%	\$3,757,656	0.91%	\$58,713,369	0.44%			
26	130	0.26%	\$2,920,440	0.70%	\$44,249,095	0.33%			
27	177	0.35%	\$4,841,756	1.17%	\$71,202,297	0.53%			
		43,857	\$248,911,914	60.00%	\$11,486,980,048	85.71%			
N1	143	0.29%	\$9,494,656	2.29%	\$135,637,941	1.01%			
N2	132	0.26%	\$2,785,024	0.67%	\$38,680,891	0.29%			
N3	132	0.26%	\$4,013,201	0.97%	\$54,232,452	0.40%			
N4	116	0.23%	\$2,537,473	0.61%	\$33,387,808	0.25%			
N5	133	0.27%	\$3,866,837	0.93%	\$49,574,832	0.37%			
N6	136	0.27%	\$2,537,581	0.61%	\$31,719,764	0.24%			
N7	111	0.22%	\$2,212,517	0.53%	\$26,981,919	0.20%			
N8	101	0.20%	\$3,384,312	0.82%	\$40,289,426	0.30%			
N9	91	0.18%	\$5,963,690	1.44%	\$69,345,228	0.52%			
N10	92	0.18%	\$2,210,518	0.53%	\$25,119,524	0.19%			
N11	5,111	10.19%	\$126,956,582	30.60%	\$1,410,628,684	10.53%			
		6,298	\$165,962,391	40.00%	\$1,915,598,467	14.29%			
		50,155	\$414,874,305	100.00%	\$13,402,578,514	100.00%			
			\$22,000,000						
			\$436,874,305						

(T) service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is \$200 or more and such service is performed by an individual who is regularly employed by such employer to perform such service. For purposes of this paragraph, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if:

- (i) On each of some 24 days during such quarter such individual performs for such employer for some portion of the day service not in the course of the employer's trade or business; or
- (ii) such individual was regularly employed, as determined under subparagraph (i), by such employer in the performance of such service during the preceding calendar quarter.

Such excluded service shall not include any services performed for an employer which is a governmental entity or any employer described in section 501(c)(3) of the federal internal revenue code of 1986 which is exempt from income taxation under section 501(a) of the code;

(U) service which is performed by any person who is a member of a limited liability company and which is performed as a member or manager of that limited liability company; and

(V) services performed as a qualified direct seller. The term "direct seller" means any person if:

(i) Such person:

(a) Is engaged in the trade or business of selling or soliciting the sale of consumer products to any buyer on a buy-sell basis or a deposit-commission basis for resale, by the buyer or any other person, in the home or otherwise rather than in a permanent retail establishment; or

(b) is engaged in the trade or business of selling or soliciting the sale of consumer products in the home or otherwise than in a permanent retail establishment;

(ii) substantially all the remuneration whether or not paid in cash for the performance of the services described in subparagraph (i) is directly related to sales or other output including the performance of services rather than to the number of hours worked;

(iii) the services performed by the person are performed pursuant to a written contract between such person and the person for whom the services are performed and such contract provides that the person will not be treated as an employee for federal and state tax purposes;

(iv) for purposes of this act, a sale or a sale resulting exclusively from a solicitation made by telephone, mail, or other telecommunications method, or other nonpersonal method does not satisfy the requirements of this subsection;

(W) service performed as an election official or election worker, if the amount of remuneration received by the individual during the calendar year for services as an election official or election worker is less than \$1,000;

(X) service performed by agricultural workers who are aliens admitted to the United States to perform labor pursuant to section 1101 (a)(15)(H)(ii)(a) of the immigration and nationality act; and

(Y) service performed by an owner-operator of a motor vehicle that is leased or contracted to a licensed motor carrier with the services of a driver and is not treated under the terms of the lease agreement or contract with the licensed motor carrier as an employee for purposes of the federal insurance contribution act, 26 U.S.C. § 3101 et seq., the federal social security act, 42 U.S.C. § 301 et seq., the federal unemployment tax act, 26 U.S.C. § 3301 et seq., and the federal statutes prescribing income tax withholding at the source, 26 U.S.C. § 3401 et seq. Employees or agents of the owner-operator shall not be considered employees of the licensed motor carrier for purposes of employment security taxation or compensation. As used in this subsection (Y), the following definitions apply: (i) "Motor vehicle" means any automobile, truck-trailer, semitrailer, tractor, motor bus or any other self-propelled or motor-driven vehicle used upon any of the public highways of Kansas for the purpose of transporting persons or property; (ii) "licensed motor carrier" means any person, firm, corporation or other business entity that holds a certificate of convenience and necessity or a certificate of public service from the state corporation commission or is required to register motor carrier equipment pursuant to 49 U.S.C. § 14504; and (iii) "owner-operator" means a person, firm, corporation or other business entity that is the owner of a single motor vehicle that is driven exclusively by the owner under a lease agreement or contract with a licensed motor carrier.

(j) "Employment office" means any office operated by this state and maintained by the secretary of labor for the purpose of assisting persons to become employed.

(k) "Fund" means the employment security fund established by this act, to which all contributions and reimbursement payments required and from which all benefits provided under this act shall be paid and including all money received from the federal government as reimbursements pursuant to section 204 of the federal-state extended compensation act of 1970, and amendments thereto.

(l) "State" includes, in addition to the states of the United States of America, any dependency of the United States, the Commonwealth of Puerto Rico, the District of Columbia and the Virgin Islands.

(m) "Unemployment." An individual shall be deemed "unemployed" with respect to any week during which such individual performs no services and with respect to which no wages are payable to such individual, or with respect to any week of less than full-time work if the wages payable to such individual with respect to such week are less than such individual's weekly benefit amount.

(n) "Employment security administration fund" means the fund established by this act, from which administrative expenses under this act shall be paid.

(o) "Wages" means all compensation for services, including commissions, bonuses, back pay and the cash value of all remuneration, including benefits, paid in any medium other than cash. The reasonable cash value of remuneration in any medium other than cash, shall be estimated and determined in accordance with rules and regulations prescribed by the secretary. Compensation payable to an individual which has not been actually received by that individual within 21 days after the end of the pay period in which the compensation was earned shall be considered to have been paid on the 21st day after the end of that pay period. Effective January 1, 1986, gratuities, including tips received from persons other than the employing unit, shall be considered wages when reported in writing to the employer by the employee. Employees must furnish a written statement to the employer, reporting all tips received if they total \$20 or more for a calendar month whether the tips are received directly from a person other than the employer or are paid over to the employee by the employer. This includes amounts designated as tips by a customer who uses a credit card to pay the bill. Notwithstanding the other provisions of this subsection (o), wages paid in back pay awards or settlements shall be allocated to the week or weeks and reported in the manner as specified in the award or agreement, or, in the absence of such specificity in the award or agreement, such wages shall be allocated to the week or weeks in which such wages, in the judgment of the secretary, would have been paid. The term "wages"