

Testimony on HB2703
House Commerce, Labor & Economic Development Committee
Peter Brady, Deputy Secretary, KDOL
February 16, 2022

Mr. Chairman & Committee Members,

I am Peter Brady, Deputy Secretary at the Kansas Department of Labor. I am here to present our proponent testimony on House Bill 2703. Over the past few weeks our agency has worked closely with representatives of the Kansas Society of Human Resources Professionals, the Kansas Chamber, and the Kansas Department of Commerce to define and draft this legislation. Last year Senate Substitute for Substitute for House Bill 2196 made substantial and needed changes to the employment security law. Since the passage of that legislation, we have identified some minor issues which are remedied by House Bill 2703.

Below is a brief outline of the provisions of this legislation, the agency supports each of these provisions as drafted:

1. **Technical cleanup of Fund Control Table B:** This provision adds 20 missing negative signs that were left out due to a drafting error.
2. **Technical cleanup of Solvency Rate and Credit Rate Schedules:** This provision truncates the decimal places from 5 to 2 in the solvency rate and credit rate schedules. The agency requested this provision to avoid additional IT development work on the mainframe system. The data field in which these values are stored can only hold two decimal places, modifying that data field would require IT development on the mainframe, which always carries a level of risk due to the age of the system. This change makes these schedules more in line with other states' practices, which usually deal with two or three decimal place values.
3. **Federal Law Concerns related to Reimbursing Employers:** In a review of Kansas Employment Security law, we have identified an area in which our state law may be out of conformity with federal law. Under state law, a governmental entity may elect to become a reimbursing employer if their services meet the definition of "employment" in K.S.A. 44-703(i)(3)(E). K.S.A. 44-703(i)(3)(E) defines "employment" for an individual as performing services in the employ of *this state* or a political subdivision of *this state*. This means that our state law only authorizes the state of Kansas or any of its political subdivisions to meet the definition of "employment" under K.S.A. 44-703(i)(3)(E) to become a reimbursing employer. Our state law, as written, does not authorize another state or political subdivision of another state who has an employee based in Kansas to meet the definition of "employment" under K.S.A. 44-703(i)(3)(E); thus, they would not

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qualify to be a reimbursing employer. We are concerned this state law restriction against other state employers places our law out of conformity with federal law. We believe this could be simply resolved by changing the two references of *this state* to *a state*.

Addressing this potential conformity issue in a timely manner is crucial for both the agency and the employer community. When the United States Department of Labor (USDOL) initiates a conformity review and finds a state law to be out of conformity, USDOL can withhold future administrative funding of the unemployment insurance program, reduce or eliminate our employer's Federal Unemployment Tax Act (FUTA) credit of 90% or both.

4. **Modification of the exemptions to My Reemployment Plan (MRP):** When MRP was revived in HB2196 language was added to exempt certain populations from the program. The statute specifically exempts individuals in the shared work program, trade readjustment assistance program, and claimants on a temporary layoff with a return-to-work date. It made sense to exempt those claimants from a reemployment service like MRP because they are not required to search for work. The language we have proposed modifies this exemption slightly and we believe it accomplishes three important things:
 - a. The proposed language simplifies the statute.
 - b. This language future-proofs the statute. Should another exemption to the work search requirement be added in statute or regulation those claimants will also be exempt from MRP.
 - c. This change aligns the work search requirement and MRP; every claimant that is required to search for work will be captured in MRP, and every claimant that is exempt from the work search requirement will be exempt from MRP as well.

Mr. Chairman, I thank the committee for your time and willingness to work with our agency. I will stand for questions at the appropriate time.



Peter Brady
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Kansas Department of Labor