



TESTIMONY ON SUBSTITUTE FOR HOUSE Bill 2196

Kansas Senate Committee on Commerce

Tuesday, March 16, 2021

Joe Horvath
Visiting Fellow
Opportunity Solutions Project

Chairman Olson, Vice Chair Steffen, Ranking Member Holland and members of the committee,

Thank you for the opportunity to submit testimony on behalf of Opportunity Solutions Project (OSP), a non-partisan, nonprofit organization that advocates for state and federal policies to advance the power of work so that more people may achieve the American Dream. This testimony is submitted in support of Substitute for House Bill 2196.

In January of 2020, Kansas's unemployment system was in vastly different condition than today. At that point, the state's unemployment trust fund held an amount just shy of \$1 billion and was tied for the 12th-best funded according to United States Department of Labor metrics.ⁱ Then, a global pandemic, economic shutdowns, and congressional legislation that incentivized businesses to lay off workers and laid-off individuals to remain unemployed led to an unprecedented increase in caseloads.

To put it simply: Unemployment fraud is unethical, and it is the state's duty to make sure improper unemployment benefit payments happen as infrequently as possible. However, this is even more true now, in the fallout of a pandemic. Every improperly paid unemployment claim represents money that has come out of the pockets of small business, since employers ultimately pay for the system. Kansas's government is trying to keep the unemployment system funded. Kansas employers are struggling to stay open. The state is trying to mount an economic recovery. None of these things can happen as easily if money is constantly lost to waste, fraud, and abuse.

Last year, Congress tried to legislate away economic pain caused by the pandemic, which had unintended negative consequences. States were forced to accommodate new classes of workers who were not typically eligible for unemployment, and the bonus federal unemployment benefits attracted sophisticated fraud schemes which were difficult to detect and combat.

Improper payments, both fraud and not, increased drastically in 2020, and unfortunately, Kansas is not an exception. In a small instance, an individual allegedly defrauded the state for more than \$100,000.ⁱⁱ In a more sophisticated scheme, an entire false website was constructed to defraud Kansas's employers and individuals.ⁱⁱⁱ Now, the state trust fund has approximately \$350 million at its disposal, a nearly 70 percent drop year over year.^{iv} This large drawdown is certainly caused by an increase in caseloads resulting from the pandemic shutdowns but can also be traced to an increase of fraud. According to data provided by the Kansas Department of Labor to the Foundation for Government Accountability, fraud investigations increased from approximately 4,000 between March and September of 2019, to more than 45,000 open investigations between January and November of 2020. The department, doubtless doing as much as it can currently (including certain cross-checks), needs better tools and processes to catch and prevent fraud before it happens.

At no point since the Great Recession has it ever been more critical for Kansas's officials and policymakers to perform their due diligence and take proper care of the state unemployment system. The portion of SB 177 that creates new system integrity-enhancing processes is a good first step in improving system integrity not only in exceptional circumstances, but also in ordinary ones.

As referenced in the bill itself, this legislation codifies guidance issued by the United States Department of Labor, which partners with states to administer their unemployment programs and oversees state unemployment laws. The U.S. Department of Labor, stating that "intercepting fraud as early as possible minimizes its impact on the UI system," recommended preventative measures, among them crossmatches.^v These crossmatches would have the Kansas Department of Labor check unemployment claims against systems and databases that already exist and to

which it already has access. Further, the Kansas Department of Labor would report back to the legislature, so that the legislature can properly exercise its oversight role.

Further, Kansas would not be alone in implementing these U.S. Department of Labor-recommended measures. Near the end of last year, and shortly after the guidance, the Louisiana legislature unanimously passed cross-check legislation during a special session, and the bill was signed into law by Governor John Bel Edwards.^{vi}

OSP supports the integrity measures included in Substitute for House Bill 2196 because they will help reduce waste, fraud, and abuse. They will help your system return to solvency. They will help make sure unemployment benefits reach those who are eligible and truly need them, rather than those who are perpetrating fraud. They are good policy and should become the standard for every state in America. Thank you for the opportunity to offer proponent testimony on this important legislation and I will answer any questions at the appropriate time.

Joe Horvath
Visiting Fellow

References

ⁱ U.S. Department of Labor. "State unemployment insurance trust fund solvency report 2020" (2020).

<https://oui.doleta.gov/unemploy/docs/trustFundSolvReport2020.pdf>

ⁱⁱ Jason Tidd, "Kansas woman was part of \$113K scam in CARES funds for unemployed, businesses, FBI says." The Wichita Eagle (2021).

<https://www.msn.com/en-us/money/smallbusiness/kansas-woman-was-part-of-24113k-scam-in-cares-funds-for-unemployed-businesses-fbi-says/ar-BB1cLGXG>

ⁱⁱⁱ "KDOL warns of fraudulent Get Kansas Benefits website." KBMC News (2020). <https://www.msn.com/en-us/news/us/kdol-warns-of-fraudulent-get-kansas-benefits-website/ar-BB1cHtKr>

^{iv} Megan Stringer. "Thousands of Kansans went months without unemployment. The backlog could end soon." The Wichita Eagle (2020).

<https://www.kansas.com/news/state/article248446730.html>

^v U.S. Department of Labor, Employment and Training Administration. Unemployment Insurance Program Letter No. 28-20 (2020).

https://wdr.doleta.gov/directives/attach/UIPL/UIPL_28-20.pdf

^{vi} Louisiana Act 22. 2020 Second Extraordinary Session. <https://www.legis.la.gov/legis/BillInfo.aspx?i=239549>