



Kansas State Council  
Society for Human Resource Management  
(KS-SHRM)



Testimony in Favor of House Sub. for HB 2105  
Senate Commerce Committee  
Natalie Bright  
March 19, 2013

Chairman Lynn and honorable Committee Members,

I am Natalie Bright appearing in support of House Sub. for HB 2105 on behalf of my client the Kansas Society for Human Resource Management (KS SHRM). This bill represents a collective effort between the Kansas Department of Labor (KDOL) and advocates who have been working closely over last several years on ways to improve and stabilize the Kansas Unemployment Insurance Trust Fund (UI Fund). The members of KS SHRM support the provisions of House Sub. for HB 2105 because we believe it addresses some longstanding concerns of our members on the administration of the UI Fund as well as assist in bringing more balance to the UI Fund.

Today, many employers across the state are still burdened by significant unemployment insurance costs. Below is a brief review of where the employer-funded UI Trust Fund stands today:

Trust Fund Balance

**\$660 million- 2008**  
**\$566 million- January 2009**  
**\$349 million- September 2009**  
**\$2.0 million- March 2013**

Economic Data

**\$300.8 Million –Borrowed from Feds (paid in full to date)**  
**\$40 million-Borrowed from State PMIB (Outstanding)**  
**\$20 million-Borrowed in 2013 from Feds (Outstanding)**  
**\$90 million increase in UI assessment to employers in 2015**

Prior to 2009, the UI Fund was recognized as one of the premiere funds in the nation. Its balance remained consistently high and the state of Kansas was not in a borrowing state. However, in 2010 our UI Fund quickly began to dwindle as the Kansas economy turned downward and a record number of Kansas workers began drawing benefits. Suddenly, our once flush trust fund was depleted. Before any action could be done to stop it, the fund went bankrupt. Instead of taking a proactive approach to reasonably increase employer contribution rates, employers faced insurmountable rate increases, some paying 700%-1,700% more than the previous year.

In 2010, the legislature passed HB 2676 which offered flexibility for employers in their contribution rates and waived penalties and interest as long as payments were made in full by the end of 2010. HB 2676 also capped tax rates for two years to help employers plan for UI rate increases in 2011.

In 2011, SB 77 passed the Kansas legislature. SB 77 extended the rate caps established in HB 2676 through 2014, created 10 new negative balance rate groups and assessed up to an additional 2% surcharge on these 10 groups for a maximum rate of 9.4%. Upon the sunset of HB 2676 and SB 77 on 2015, **rate/contribution increases totaling around \$90 million are set to kick in if nothing is done to restructure the existing system.**

While the legislature has taken action to help the UI trust fund over the past few years, we must not lose sight of the fact that these changes were mere 'plugs in the dam' and not long-term solutions to the structural deficiencies with the fund. We have a long way to go before the Kansas UI fund is updated and modernized.

In an effort to address the concerns KS SHRM stands before you in support of the following reforms set out in House Sub. for HB 2105 that our members believe will assist with stabilizing and equitably replenishing the UI Fund:

**Employer Taxes:**

- Reduce the HCM in the statute from 1.2 to 1.0.
- Reduce new employer rate from 4.0% to 2.7% with the exception of construction.
- In 2015, increase taxable wage base from \$8,000 to \$16,000 which shifts a larger portion of employer contributions to the negative balanced employers who have withdrawn greater benefits than they paid. KS SHRM also supports phasing in the wage base increases.

**Benefits:**

- Address that Holiday/Vacation pay should not be calculated as wages.
- Require severance pay be treated as wages and not allow benefits until it is exhausted.
- Treat vacation and holiday pay equally as deductible from the amount of benefits a claimant receives.
- Eliminate 26 weeks of additional approved training benefits.
- Clarify that all three conditions must be met for injured workers to be entitled to the alternative base period.
- Narrowly define "good cause" when dealing with disqualification for individuals who leave work voluntarily.
- Limit exceptions to disqualification for harassment and violations of the work agreement.
- Modernize the misconduct disqualification provisions.
- Rework the drug and alcohol provisions to include lower standards for testing; allow for disqualifications for violation of a zero-tolerance policy; add test tampering to misconduct; makes a discharge for a drug or alcohol offense gross misconduct.

**Administration:**

- Expand notification timeframe requirements by KDOL to employers by November 30<sup>th</sup>.
- Clarify and enforce benefit disqualifications based on "misconduct" and "gross misconduct."
- Include a provision all persons and employers are entitled to neutral interpretation of the employment security law.
- Eliminate an alternative base period allowing individuals who don't have sufficient base period wages to still qualify for UI benefits.
- Fix "concurrent" part-time employment loophole that unfairly charges some employers' accounts for pro-rata share of benefits.

Replenishing the UI Fund is going to be expensive and is going to take more than just employer contributions to the system. ***As such, KS SHRM strongly supports this committee consider inserting language that also addresses the benefit side of the equation.*** Originally, HB 2124 contained provisions which would reduce the length of benefits from 26 weeks to 20 weeks when unemployment falls below 6%. Several states have adopted this policy as they work to rebuild their trusts funds and realize placing the entire burden on employers is not equitable nor economically wise. However, the House decided not to include a benefit provision in their substitute as the KDOL and other advocates continued discussing the best approach to addressing benefits. The members of KS SHRM strongly encourage the Kansas Legislature to address benefits in the legislative fix to restore our bankrupt UI Fund.

Passage of House Sub. for HB 2105 is a step in the right direction. Thank you for the opportunity to testify in favor of House Sub. for HB 2105. KS SHRM and our over 2,300 members look forward to working with you to address the issues facing Kansas employers in the UI arena. I will stand for questions at the appropriate time.