



## Proponent Testimony for HB 2764

### *The Kansas Unemployment Insurance Modernization and Conformity Act of 2026*

Joint KS House and Senate Commerce Committee | February 11, 2026 | Phillip M. Hayes

#### **Chairmen Tarwater and Alley, members of the Committee:**

Thank you for the opportunity to appear before you today. My name is Phillip Hayes, and I'm here on behalf of a broad Kansas employer coalition whose shared interest is maintaining system stability, federal conformity, and long-term trust-fund solvency.

This bill, titled the *Kansas Unemployment Insurance Modernization and Conformity Act*, represents a comprehensive update to Kansas unemployment insurance law to ensure continued federal conformity, strengthen program administration, and safeguard the solvency of the employment security trust fund.

#### **This bill **does not** expand unemployment benefits:**

- Does **not** expand benefit eligibility
- Does **not** extend benefit duration
- Does **not** increase weekly benefit amounts
- Does **not** create new tax tables or employer surcharges

Before turning to the specific policy areas addressed, **a brief note on the structure and scope of the bill** may be helpful for the record.

For context, this **bill is comprehensive in scope, touching much of the existing employment security law**. Its length **reflects consolidation, technical updates, organizational restructuring, and federal conformity adjustments** across multiple statutes, **not an expansion of benefits or a broad policy rewrite**. The **substantive policy decisions are narrow**, clearly identified in the testimony and summaries (appendices A, B, and C), and bound by explicit guardrails that **do not expand benefits, increase tax groups, create new surcharges or alter eligibility**.

**At its core, this is a technical and structural bill**. It modernizes statutory language, clarifies existing provisions to support consistent and transparent administration, and reinforces legislative oversight of future changes affecting eligibility, benefits, and trust-fund integrity.

As further detailed in the attached Q&A, the bill modernizes statutory structure and administration without increasing entitlements. Moreover, it focuses on compliance, operational clarity, and fiscal responsibility, protecting Kansas' federal certification while maintaining a stable and predictable unemployment insurance system for both workers and employers across the state.

From a practical standpoint, the **goal is workforce stability**. This bill ensures Kansas maintains a compliant, well-administered, and solvent unemployment insurance system that supports reemployment, responsibly manages the trust fund over the long term, and provides employers with federally compliant tools during **temporary workforce disruptions**.

Today, I will provide:

- Context and background
- A high-level overview of the bill
- Key policy areas addressed
- Clarification regarding Supplemental Unemployment Benefit Plans (SUB) plans
- Why these updates matter

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## Context and Background

The following context explains why statutory clarification was necessary to restore consistency, equity, and federal conformity following the use of temporary measures and appropriations provisos.

During the final days of the 2025 session, a narrowly tailored proviso addressing a specific employer circumstance was introduced at which time legislative leadership and subject-matter experts were consulted regarding the intricacies of KS employment security law and related concerns stemming from the proviso language. Despite extensive discussion regarding downstream impacts to the trust fund and non-related employers, the proviso was enacted.

The proviso expanded the temporary unemployment designation administratively beyond existing statute, removed work-search requirements for certain individuals, and created uneven treatment across employers.

In practice, the **proviso produced the following administrative and policy effects:**

- **Expanded temporary unemployment** beyond statute
- **Removed work-search requirements** for certain individuals
- **Applied unevenly** across employers
- Raised trust-fund and **federal conformity concerns**

### **Statutory Reference – Included for the Record:**

“(c) Notwithstanding the provisions of K.S.A. 44-703, and amendments thereto, or any other statute, during the fiscal year ending June 30, 2026, in addition to the other purposes for which expenditures may be made by the above agency from moneys appropriated from the state general fund or from any special revenue fund or funds of the above agency for fiscal year 2026 as authorized by this or other appropriation act of the 2025 regular session of the legislature, expenditures shall be made by the above agency from such moneys for fiscal year 2026 to consider an individual as temporarily unemployed for purposes of K.S.A. 44-703(ii), and amendments thereto, if such individual is covered by a collective bargaining agreement and has been laid off due to lack of work by an employing unit for which the individual has most recently worked full time and for which the individual reasonably expects to resume full-time work at a future date within six months: **Provided,** That such period of temporary unemployment designation shall not exceed six months: **Provided further,** That the provisions of K.S.A. 44-703(ii), and amendments thereto, concerning resuming full-time work at a future date within eight weeks shall not apply to such individuals covered by a collective bargaining agreement: **And provided further,** That such individuals shall not be required to look for work and enroll in the my reemployment plan during such six-month period of temporary unemployment: **Provided, however,** That such individuals shall be eligible for only eight weeks of temporary unemployment benefits.”

Because Kansas UI is a pooled trust fund with solvency-based triggers, this one-time exception produced an automatic statewide impact – approximately **\$10M+** in additional UI taxes in 2026, affecting **60,000+** positive-rated employers – by statute, not administrative discretion.

**Subsequent analysis was conducted to quantify the impact and identify potential long-term solutions.** That analysis prompted a deeper review of SUB plans and their interaction with state unemployment insurance benefits. Discussions continued with legislative leadership regarding possible paths forward. Early considerations were explored and shared with the Revisor’s Office in late summer and informed the statutory framework reflected in this bill.

**Additionally, during the interim, a Temporary Unemployment Working Group spearheaded by the Governor’s office** was convened beginning in August and included stakeholders from labor, business, and human resources communities. The group met four times to explore potential legislative approaches for individuals on temporary unemployment with return-to-work dates extending beyond eight weeks. Additional subset meetings were held to vet possible solutions.

While those discussions were thoughtful and respectful, **no consensus was reached.** In particular, the group was unable to agree on proposals involving employer surcharges if temporary benefits could not be capped at 8 weeks, and without consensus, no unified legislative recommendation emerged from that process.

In light of the lack of consensus, legislative leadership, under **Representative Tarwater, refocused the discussion on statutory guardrails and benefit coordination rather than employer surcharge mechanisms.** That approach relied on refinements to existing, statutorily authorized rate-group solvency adjustments and avoided the creation of new employer surcharges or new tax rate groups beyond those authorized under existing statutory.

As part of that approach, and at Representative Tarwater’s request, **discussions were elevated to the federal level** to ensure Kansas remained fully aligned with U.S. Department of Labor (USDOL) guidance. Discussions were initiated with USDOL’s Employment and Training Administration to discuss **Supplemental Unemployment Benefit (SUB) plans**, their interaction with state unemployment insurance programs, and potential guardrails available and necessary to preserve **federal conformity and long-term trust fund solvency**.

Those discussions **reinforced that any state action** in this space **must be narrow to**

- **maintain federal conformity,**
- particularly **with respect to SUB plans,**
- **temporary unemployment designations,** and
- claimant **eligibility sequencing.**

That **framework was reflected in the January 6, 2026 meeting** of the Unemployment Compensation Modernization and Improvement Council (UCMIC), which was convened immediately ahead of session **to identify operational issues and areas of statutory alignment.**

During that meeting, the **Council identified that several areas of unemployment insurance administration** had, in practice, **produced inconsistent or uneven outcomes,** including:

- Temporary unemployment rules
- Work-search requirements during temporary disruptions
- Interactions with Supplemental Unemployment Benefit (SUB) plans

The discussion repeatedly returned to the need for clear statutory definitions, consistent claimant obligations, and guardrails that prevent cross-subsidization and avoidable employer tax increases, while preserving tools that support workforce stability during short-term interruptions.”

This **bill reflects that guidance by addressing areas of demonstrated alignment and administrative necessity,** including:

- **Restoring** statutory clarity
- **Reinforcing** legislative and administrative guardrails
- **Ensuring** continued federal conformity
- **Correcting** identified administrative inconsistencies

It does so **without expanding benefits or introducing new surcharge structures.**

This process resulted in a narrow, consensus-aligned solution focused on clarity, conformity, and solvency.

This bill reflects those findings by addressing areas of demonstrated alignment and administrative necessity, without expanding benefits, imposing new surcharges, or predetermining future policy debates.

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## Key Policy Areas Addressed

### 1. **Federal Conformity – Maintaining federal alignment protects FUTA tax credits and federal funding.**

The bill strengthens federal conformity by maintaining alignment with federal law to protect Kansas employers from the loss of FUTA tax credits and ensures continued federal administrative funding. Even small inconsistencies can result in significant downstream costs, which is why conformity and statutory clarity are emphasized throughout the bill.

### 2. **Legislative Oversight – Substantive UI policy should be enacted through statute, not budget provisos.**

Even in experience-rated systems, statutory ceilings/floors and pooled financing mean some benefit costs inevitably get shared... so employer-specific exceptions can unintentionally shift costs onto stable, positive-rated employers.

The bill reinforces legislative oversight by ensuring that substantive changes to unemployment insurance policy occur through the regular statutory process, not through temporary budget provisos or administrative workarounds.

**By doing so, this provides:**

- a. **predictability** for employers,
- b. **consistency** for claimants, and
- c. ensures **appropriate fiscal and actuarial review** when changes are considered.

As noted above, **nothing in this bill limits or constrains the authority of the Legislature to amend, expand, or modify** unemployment insurance law in the future; it simply affirms that substantive changes should occur through the regular statutory process with transparency and fiscal review.

**3. Trust-Fund Integrity – Retiring temporary write-offs prevents cost-shifting and protects solvency.**

The bill restores equity and trust-fund integrity by retiring prior debt write-off provisions that were enacted as temporary relief measures. Those provisions served an important purpose at the time. However, continuing them indefinitely would convert short-term relief into an ongoing subsidy, shifting costs to other employers and undermining trust-fund solvency. Retiring them restores the standard contribution and charging structure without creating new penalties or retroactive liability.

For scale, UCMIC reporting showed the negative-balance write-off provision resulted in approximately **\$405.1M** across **1,718** participating severely negative-rated employers; illustrating how temporary relief can become long-term cost shifting if left in place.

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## **Supplemental Unemployment Benefit (SUB) Plans**

A key clarification in the bill relates to **SUB plans**.

**SUB Plans – At a Glance:**

- Voluntary
- **100% employer-funded**
- Federally recognized
- **No trust-fund charging**; state weekly benefits are paid first before any employer-funded supplement
- Monetary supplemental **payments are treated as benefits, not wages**
- **No benefit expansion**

SUB plans are voluntary, employer-funded supplemental payments recognized under federal law. As outlined in the attached SUB explainer, the bill clarifies how federally compliant SUB plans interact with state UI benefits without shifting costs to the trust fund or other employers.

This bill **does not create SUB plans**. Instead, it specifically **clarifies how Kansas recognizes federally compliant SUB plans** so that:

- Payments are fully employer-funded,
- Workers are not disqualified from state unemployment benefits,
- Costs are not shifted to the unemployment insurance trust fund or other employers, and
- The state maintains federal conformity and certification.

SUB plans are **not paid from the trust fund**, are **not funded by other employers**, **do not expand benefits**, and **do not allow double-dipping**. The bill simply provides statutory clarity so compliant plans can operate as intended under federal law.

Throughout the bill costs remain with the employers who choose to offer supplemental benefits, and safeguards are included to prevent cross-subsidization or avoidable employer tax increases, as detailed in the attached material.

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## Temporary Unemployment Coordination

The bill clarifies the administration of temporary unemployment for up to eight weeks to support short-term disruptions while preserving remaining benefits if an individual later becomes fully unemployed, as further detailed in the attached Q&A.

**Temporary unemployment is limited, coordinated, and protective – not open-ended under current statute.**

During this period:

- State unemployment benefits are paid as usual,
- Employer-funded **SUB payments may supplement income**,
- Temporary unemployment weeks are structured to avoid **unnecessary benefit exhaustion**, and
- If the **individual later becomes fully unemployed, their remaining benefit entitlement is preserved**.

This structure ensures temporary disruptions are treated as temporary, rather than converted into extended unemployment.

This coordination supports short-term disruptions, aligns with federal SUB requirements, and prevents long-term benefit depletion for layoffs that were expected to be temporary – while maintaining clear claimant obligations and administrative consistency.

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## Why This Matters

Kansas is currently among the more solvent state unemployment trust funds in the nation, while also keeping average employer UI taxes comparatively low. That combination is not accidental... it's the result of predictable, uniform guardrails that matter for both solvency and competitiveness. Over the past decade, those same guardrails have helped Kansas move from the middle of the pack into the top tier of overall tax competitiveness.

Temporary provisos created uneven outcomes, trust-fund risk, and potential federal conformity concerns.

Taken together, updates in this bill address:

- **Workforce stability:** Supports reemployment
- **Turnover reduction:** Avoids unnecessary separations
- **Cost discipline:** Keeps costs with SUB plan participating employers
- **Trust-fund protection:** Preserves solvency for all employers
- **Federal compliance:** Maintains certification and funding

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## Legislative Intent

It is the intent of the Legislature, in enacting the Kansas Unemployment Insurance Modernization and Conformity Act, to modernize and clarify the administration of unemployment insurance law in a manner that preserves federal conformity, protects the long-term solvency of the employment security trust fund, and ensures consistent and transparent application of existing policy. This Act is intended to restore statutory clarity where temporary measures and budget provisos created ambiguity or unintended consequences, while reaffirming that substantive unemployment insurance policy should be established through the regular legislative process. Nothing in this Act is intended to expand benefit eligibility, extend benefit duration, create new employer taxes or assessments, or limit the authority of future legislatures to amend unemployment insurance law. Rather, the Act is intended to maintain a stable, predictable, and federally compliant unemployment insurance system that supports workforce stability during temporary disruptions while safeguarding trust-fund integrity for all employers and workers.

This Act is further intended to clarify that temporary or non-statutory mechanisms are not to be used as a substitute for enacted law and are not to be construed as establishing precedent for the expansion of unemployment insurance benefits.

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## Acknowledgements and Closing

Before I conclude, I would like to formally acknowledge the Office of Revisor of Statutes, and in particular Assistant Revisors Charles Reimer and Kyle Hamilton, for their diligence, technical expertise, and sustained commitment throughout the development of this legislation. Their careful attention to statutory structure, clarity, and federal conformity was instrumental in ensuring the bill accurately reflects legislative intent and maintains internal consistency across Kansas employment security law.

I would also like to recognize Secretary Shultz and the Kansas Department of Labor team for their leadership and stewardship of the unemployment insurance system over the past five years. During a period marked by unprecedented disruption, rapid federal changes, and significant administrative strain, the Department worked diligently to maintain federal conformity, administer benefits accurately, and protect the long-term solvency of the trust fund for Kansas workers and employers alike.

Importantly, this bill is designed not only to address the specific issues before you today, but to protect that hard work in future years and across future administrations. By restoring statutory clarity, reinforcing legislative guardrails, and reducing reliance on temporary or non-statutory mechanisms, the bill helps ensure that the stability, consistency, and compliance achieved through that effort are preserved over time.

In closing, HB 2764 modernizes Kansas unemployment insurance law to maintain federal conformity, strengthen administration, support responsible employer-funded transition tools, and safeguard trust-fund solvency – without expanding benefits. It preserves the integrity of the system while ensuring it remains predictable, compliant, and sustainable for the long term.

We respectfully request your support on HB 2764. Thank you for your time and service to our state.

Respectfully,



Phillip M. Hayes  
316.619.7864 | [phayes@arnoldgroupphr.com](mailto:phayes@arnoldgroupphr.com)

**Vice President** | The Arnold Group – A Human Resource Company (TAG)

**Employer Representative** | KS Unemployment Compensation Modernization & Improvement Council (2014 – 2022)

**Member & Current Chair** | KS Workers Comp & Employment Security Boards Nominating Committee (2021 – Present)

**Past Chairman** | Kansas Employment Security Board of Review (2014 – 2022)

**1. Does this bill expand unemployment benefits in any way?**

No. The bill does not expand benefit eligibility, duration, or weekly benefit amounts. It modernizes statutory structure, clarifies administration, and strengthens safeguards for trust-fund solvency and federal conformity.

**2. What are Supplemental Unemployment Benefit (SUB) plans, and why are they addressed here?**

SUB plans are voluntary, employer-funded supplemental payments provided during temporary layoffs and recognized under federal law. The bill clarifies how Kansas recognizes compliant SUB plans so they can supplement, *not replace*, state unemployment benefits without disqualifying workers or shifting costs to the trust fund.

**3. Does allowing SUB plans increase unemployment insurance costs for other employers?**

No. Properly structured SUB plans are paid entirely by the employer and are not charged to the unemployment insurance trust fund. The bill also includes monitoring and reporting so the legislature can evaluate any fiscal interaction.

**4. Why does the bill restrict changes to unemployment law through budget provisos?**

Because changes to eligibility, benefits, or administration can have major fiscal and federal conformity impacts. The bill ensures those changes occur through the regular legislative process with review, transparency, and actuarial consideration, rather than temporary budget language. Ultimately, this protects both employers and the state by ensuring predictability and compliance, not by limiting legislative authority.

**5. Does this bill prevent the legislature from making future changes?**

No. The legislature retains full authority to amend unemployment law. The bill simply establishes that substantive changes should occur through the regular statutory process, with transparency and fiscal review.

**6. What does the bill do regarding negative balance write-offs or employer account relief?**

The bill removes prior debt write-off provisions that were intended as temporary measures and restores the standard contribution and charging structure. This closes a loophole that could shift costs to other employers and helps protect trust-fund solvency, without creating new penalties or retroactive liability.

**Why retire the write-off provision now?** The provision has served its temporary purpose. Continuing it would convert short-term relief into an ongoing subsidy, creating inequities among employers and weakening trust-fund integrity.

**7. Does the bill change the maximum duration of unemployment benefits?**

No. The bill does not increase overall benefit duration. It clarifies how benefit exhaustion is treated during temporary unemployment, allowing coordination with employer-funded SUB plans while preserving a claimant's remaining benefits if they later become fully unemployed.

**So does this allow "double-dipping"?** No. SUB payments supplement income but do not duplicate or increase a claimant's total unemployment benefit entitlement.

**8. Why emphasize federal conformity so heavily?**

Federal conformity protects Kansas employers from losing FUTA tax credits and ensures continued federal administrative funding. Even small inconsistencies can result in significant costs, making alignment essential.

**9. Is this bill more favorable to employers or claimants?**

The bill is system-focused. It is designed to maintain a stable, predictable, and solvent unemployment insurance system that works for both employers and workers.

**10. In plain terms, why is this bill needed now?**

Unemployment insurance law has grown more complex over time. This bill modernizes and clarifies the system to keep it compliant, fiscally sound, and effective, without expanding benefits, during both normal cycles and temporary disruptions.

### What is a Supplemental Unemployment Benefit (SUB) Plan?

A Supplemental Unemployment Benefit (SUB) plan is a voluntary, employer-funded program that provides additional income to employees during a temporary layoff, supplementing, not replacing, state unemployment insurance benefits. SUB plans are recognized under longstanding federal guidance.

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#### What This Bill Does

- Clarifies how **Kansas recognizes federally compliant SUB plans**
  - Confirms SUB payments **do not disqualify workers** from state UI benefits
  - Requires SUB plans to be **100% employer-funded**
  - Establishes **oversight and reporting** to protect trust-fund solvency and federal conformity
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#### What SUB Plans Are Not

- Not paid from the UI trust fund; however, SUB payments require the claimant to receive and *exhaust* weekly state benefits first
  - Not funded by other employers
  - Not a benefit expansion or “double-dip”
  - Not a permanent wage replacement
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#### Coordination with Temporary Unemployment (Up to 8 Weeks)

When an employer designates an employee as temporarily unemployed (up to 8 weeks):

- State UI benefits are paid as usual; no work search requirement
  - Employer-funded SUB payments supplement those benefits
- Temporary unemployment weeks are structured to avoid unnecessary benefit exhaustion
  - If the worker later becomes fully unemployed, their remaining benefit entitlement is preserved.

This coordination supports short-term workforce disruptions and SUB plan requirements, without depleting long-term benefits for situations that did occur in 2025.

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#### Why SUB Plan Coordination Matters

- Supports workforce stability and reemployment
  - Reduces unnecessary turnover
  - Keeps costs with the employer choosing to offer the plan
  - Provides income stability during short-term disruptions
  - Protects trust-fund solvency for all employers
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#### Trust Fund & Federal Safeguards Required in the Bill

- Compliance with federal IRS and USDOL guidance
- Employer-only funding
- Ongoing monitoring and reporting to the Legislature
- Authority to adjust if trust-fund impacts emerge

This ensures Kansas maintains federal certification, FUTA tax credits, and administrative funding.

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#### Bottom Line

SUB plans are a responsible, federally compliant employer tool for managing temporary workforce disruptions. This bill clarifies how Kansas recognizes employer-funded SUB plans so they operate transparently, are properly coordinated with state unemployment benefits, do not expand benefits, and do not shift costs to the unemployment insurance trust fund or other employers.



### What This Bill Is

- A **technical and structural modernization** of Kansas unemployment insurance law
- Focused on **federal conformity, administrative clarity, and trust-fund solvency**
- Designed to **restore guardrails** after temporary measures created ambiguity

### What This Bill Is Not

- Does **not** expand benefit eligibility
- Does **not** extend benefit duration
- Does **not** increase weekly benefit amounts
- Does **not** create new ER surcharges / tax rate groups

### Why This Bill Matters Now

- Kansas currently maintains **strong trust-fund solvency** while keeping **average employer UI taxes comparatively low**
- **Temporary, non-statutory measures created:**  
**Uneven outcomes** across employers | **Trust-fund risk** through cost-shifting | Potential Federal **conformity concerns**
- This bill **restores predictability and consistency** without limiting future legislative authority

### Key Context for the Record

- Kansas UI is a **pooled trust fund with solvency-based statutory triggers**
- Employer exceptions (even narrow/temporary) produce **statewide tax impacts by statute**, not agency discretion
- Maintains clarity in statute protects employers, claimants, FUTA tax credits, & Federal administrative funding

### Core Policy Guardrails Reinforced by the Bill

Going forward, the policy guardrails are straightforward:

- Keep **costs aligned to the employers generating them**
- Require fiscal and solvency review before exceptions are enacted
- And use modern system data to flag emerging risks before they trigger statewide tax increases

### Supplemental Unemployment Benefit (SUB) Plans – At a Glance

- Voluntary, 100% employer-funded and federally recognized
- Do not draw from the UI trust fund, but are dependent on weekly state UI benefit payments
- Do not expand benefits or allow double-dipping
- State benefits are paid first; SUB payments supplement income

*The bill does not create SUB plans; it clarifies how Kansas recognizes compliant plans to preserve federal conformity & prevent cost-shifting.*

### Temporary Unemployment Coordination (Up to 8 Weeks)

- Temporary unemployment remains **limited and defined**
- Benefits are coordinated to:
  - Support short-term disruptions
  - Preserve remaining benefits if a layoff becomes permanent
  - Maintain claimant obligations and administrative consistency
- Prevents temporary situations from becoming extended unemployment by default

### Legislative Authority Preserved

- The Legislature retains **full authority** to amend unemployment insurance law
- Reaffirms **substantive policy changes belong in statute**, not in temporary provisos/administrative workarounds

### Bottom Line / Summary

- This bill **modernizes and clarifies** Kansas UI law
- Protects **federal conformity and trust-fund solvency**
- Supports **workforce stability during temporary disruptions**
- Does so **without expanding benefits, increasing tax rate groups, or creating employer surcharges**

This bill modernizes and clarifies Kansas unemployment insurance law without expanding benefits, preserves federal conformity and trust-fund solvency, and reinforces clear guardrails that keep costs aligned, require fiscal review, and prevent unintended, consequential statewide tax impacts.