

## Commerce, Labor, and Economic Development

### B-3 Unemployment Insurance Trust Fund

#### Overview

The Kansas Unemployment Insurance (UI) Trust Fund was created in 1937 as the state counterpart to the Federal Unemployment Insurance Trust Fund. The UI Trust Fund provides income stability for Kansas citizens during times of economic difficulty while stimulating economic activity. UI is a federal program managed by the State. Changes to Employment Security Law cannot take effect until approved by the U.S. Department of Labor. The Legislature has modified the provisions of the Kansas Employment Security Law several times over the past two decades.

#### State Fund Contributions

Contributions to the UI Trust Fund are made by Kansas employers and are governed by KSA 2018 Supp. 44-710a. The UI Trust Fund is designed to be self-correcting during economic cycles. Moneys in the UI Trust Fund accumulate during periods of economic expansion; benefits are distributed during economic recessions.

Unemployment rates increase when contribution rates increase, while contribution rates decline during better economic times. The State charges employers a fee on the first \$14,000 of wages paid to each employee. This is called the taxable wage base. (In rate year 2016, the taxable wage base increased from \$12,000 to \$14,000.) The amount collected from employers varies depending upon the presence or absence of several factors or conditions, such as employer classifications. Employers in Kansas can be classified as a new employer, an entering and expanding employer, a positive balance employer, or a negative balance employer.

New employers in the construction industry with less than three years of employment history are charged a fee amount equal to 6.0 percent of their taxable wage base. For new employers who are not in the construction industry and have fewer than 24 months of payroll experience, the contribution rate is 2.7 percent.

After receiving notice from the Kansas Department of Labor regarding contributions owed for the upcoming rate year, a new employer has 30 days to request an alternative rate be applied

if the employer can provide information that the employer's operation has been in existence in another state for a minimum of three years prior to moving to Kansas.

If that condition is met, the employer's contribution rate will be equal to the rate previously charged by another state provided that rate was not less than 1.0 percent. In order to retain the reduced contribution rate, the employer must maintain a positive account balance throughout the four-year period the reduced rate is in effect.

Employers with an employment history of at least three years qualify for experience-based ratings.

Employers are classified as positive balance when their total contributions to the UI Trust Fund exceed the amount of unemployment benefits charged to their accounts. Positive balance employers are grouped into 27 rate groups, depending upon their unemployment experience, and a specific contribution rate is determined for each employer.

The standard rates for the positive groups range from 0.2 percent for rate group 1 and increase by 20 basis points in each subsequent rate group until 5.4 percent is established for rate group 27.

Employers not classified as negative balance employers are eligible to receive a fee discount of 25.0 percent if all reports are filed and contributions are made by January 31. This discount does not apply if other discounts provided by law are in effect or if the UI Trust Fund's balance is insufficient.

Employers are classified as negative balance when their total contributions to the UI Trust Fund do not exceed the amount of unemployment benefits charged to their accounts. They are grouped into 11 rate groups. The standard rates for the negative groups range from 5.6 percent for rate group N1 and increase by 20 basis points in each subsequent rate group until 7.6 percent is established for rate group N11.

The solvency adjustment, which is based upon the UI Trust Fund's reserve ratio (the UI Trust Fund's balance as of July 31, divided by total payroll for

contributing employers) and the average high benefit cost rate (an average of the three highest ratios of benefits paid to total wages in the most recent 20 years) is applied to all experience-rated employers, which range from a maximum of 1.6 percent to a minimum of -0.5 percent. Employers have the choice to make additional contributions to the UI Trust Fund in order to become positive balance employers and qualify for an experience-based rating with lower contribution rates.

### **Federal Unemployment Trust Fund**

In addition to the contributions to the UI Trust Fund, employers are taxed by the Federal Unemployment Tax Act (FUTA).

Employers pay a rate of 6.0 percent on the first \$7,000 of income; however, the federal government provides a tax credit of 5.4 percent against this rate for states with an unemployment insurance program in compliance with federal requirements.

This yields an effective contribution rate of 0.6 percent for Kansas employers. FUTA funds are used for administrative purposes and to fund loans for state unemployment insurance programs when they become insolvent.

### **Solvency of UI Trust Fund**

Kansas uses the Average High Cost Multiple (AHCM), as recommended by the U.S. Department of Labor, to ensure the UI Trust Fund is adequately funded. The AHCM is the number of years a state can pay benefits out of its current UI Trust Fund balance if it were required to pay benefits at a rate equivalent to an average of the three highest 12-month periods in the past 20 years.

The primary determinants of the UI Trust Fund depletion rate are the benefits paid out, the number of persons to whom unemployment is paid, and the amount of time for which benefits are paid.

### Current Status of the Fund

If a future recession were severe enough to deplete the UI Trust Fund, which happened during the Great Recession, the Kansas Department of Labor is authorized to borrow from the federal Labor Department, Pooled Money Investment Board, or both to make weekly benefit payments. The State General Fund is not obligated to ensure the solvency of the UI Trust Fund. Likewise, the UI Trust Fund may not be used for non-employment security purposes. Federal UI loans must be repaid in a single lump sum plus interest, which is waived if a state’s UI trust fund was sufficiently solvent prior to the loan. Failure to repay the loan results in the FUTA tax credit for employers being reduced by an additional 0.3 percent annually until the debt is repaid.

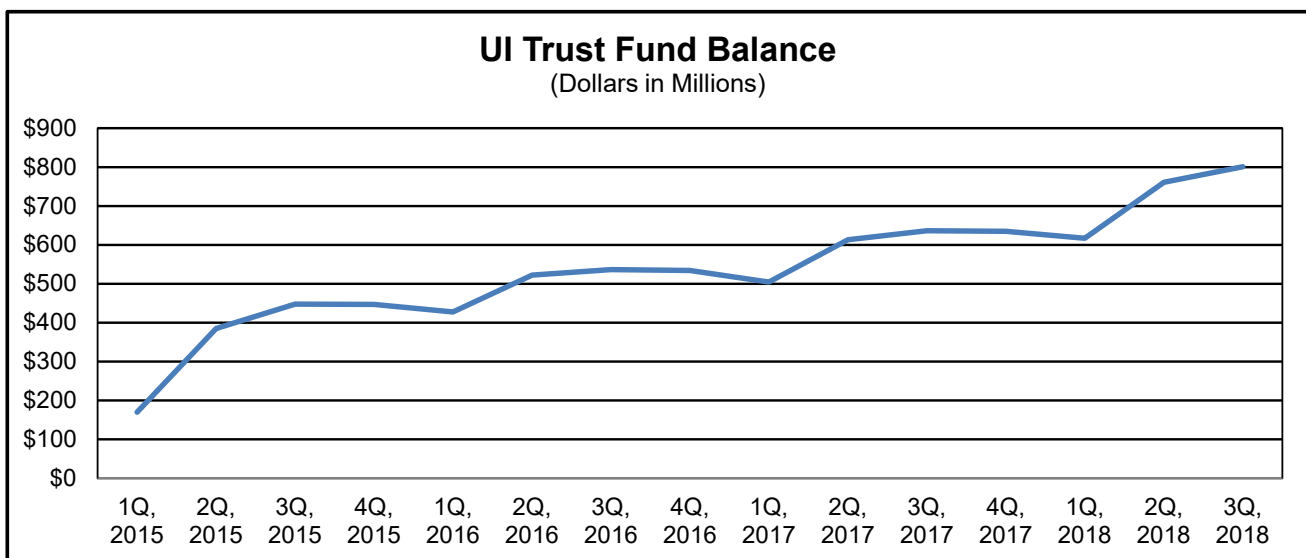
### Employee Benefits

An individual is eligible for unemployment compensation when that person has lost employment through no fault of his or her own. Termination or resignation generally disqualifies a person from receiving UI benefits; however, Kansas Employment Security Law allows for several exceptions to this prohibition.

The amount of money an employee can receive in benefits will vary depending on the level of compensation the employee received during employment and the length of time the employee can receive benefits. However, there are strict upper and lower limits on benefit payments to prevent over- and under-compensation. If the Kansas Department of Labor determines a person made a false statement or representation when applying for benefits, that person is disqualified from receiving benefits for five years.

### Calculating the Weekly Benefit

The weekly benefit amount is what the claimant will receive each week in unemployment compensation. The weekly benefit amount is determined by multiplying 4.25 percent times the highest earning quarter in the first four of the last five completed calendar quarters. KSA 2018 Supp. 44-704(c) limits the weekly benefit amount to either \$474 or 55.0 percent of the average weekly wages paid to employees in insured work in the previous calendar year, whichever is greater. Subsection (d) of the same statute guarantees that employees will receive at least 25.0 percent of the average weekly wages paid to employees in insured work in the previous calendar year.



Source: Weekly UI Reports, Kansas Department of Labor

## Calculating the Length of Compensation

During a standard or non-recessionary period, an employee's duration of benefit is calculated in one of two ways, whichever is less. First, an employee can receive weekly compensation for a specified number of weeks, or second, the duration of benefits is determined by multiplying one-third times the total benefits received in the first four of the last five completed calendar quarters. The weekly benefits amount is divided into the total benefits received in order to determine the number of weeks an employee can receive compensation. If the unemployment rate for Kansas is equal to or greater than 6.0 percent, a person is eligible for a maximum of 26 weeks of benefits. If the unemployment rate is less than 6.0 percent but greater than 4.5 percent, a person is eligible for 20 weeks of benefits. A person is eligible for 16 weeks of benefits if the unemployment rate is equal to or less than 4.5 percent. For purposes of this provision, the law calculates the unemployment rate using a three-month, seasonally adjusted rolling average.

The federal Emergency Unemployment Compensation Act of 2008 (Act) extends an

employee's duration of benefits by 20 weeks and has an additional Tier 2 trigger to provide 13 weeks of compensation when unemployment exceeds 6.0 percent, for a total of 33 weeks above the 26 weeks of unemployment compensation in non-recessionary periods. All benefits paid under the Act are paid from federal funds and do not impact the UI Trust Fund balance. Under KSA 2018 Supp. 44-704(a), Kansas will provide an additional 13 weeks of unemployment compensation when the Kansas economy hits one of several indicators, including an unemployment rate of at least 6.5 percent for the previous three months. An applicant can receive less than 13 weeks of extended state benefits in the event his or her original eligible benefit period was less than 26 weeks based on the one-third calculation. Under state law, extended Kansas benefits are paid 50.0 percent from the UI Trust Fund and 50.0 percent from the Federal Unemployment Account.

## Enforcement of the UI System

In 2013, the Legislature authorized the Secretary of Labor to hire special investigators with law enforcement capabilities to investigate UI fraud, tax evasion, and identity theft.

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