



Federal Conformity Roundtable and How to Educate Elected Officials

Federal Conformity

- Federal Statutory Requirements
- Certification and Conformity Process
- Resolving Issues

Federal Statutory Requirements

- The Social Security Act provides for grants to the states for the administration of UC.
- However, “the Secretary of Labor shall make no certification for payment to any State unless he finds that the law of such State, approved by the Secretary of Labor under the Federal Unemployment Tax Act, includes provision for –”
- 42 U.S.C. § 503

Federal Statutory Requirements

- Required provisions
- 12 – found in 42 U.S.C. § 503(a)
- personnel standards on a merit basis
- reasonably calculated to insure full payment of unemployment compensation when due
- opportunity for fair hearing
- Deposit and withdrawal standards

Federal Statutory Requirements

- red tape “making of such reports...”
- fraud penalty of 15%
- able and available and actively seeking work
- (b)- Failure to comply; payments stopped
 - *After reasonable notice and opportunity for hearing*
 - *a failure to comply substantially with any provision in subsection (a)*

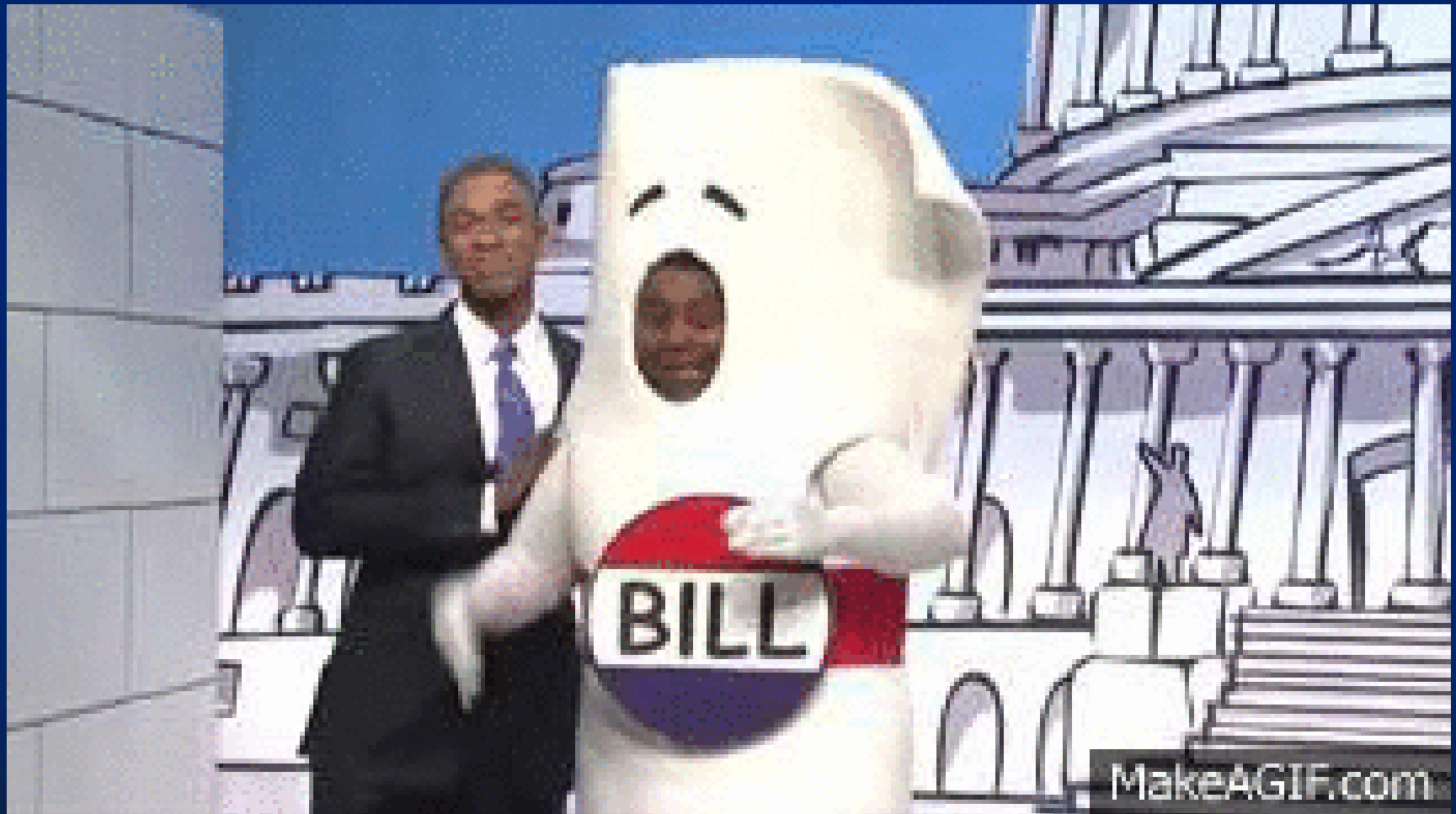
Federal Statutory Requirements

- Secretary of Labor makes 3 certifications to Secretary of the Treasury
 - 3304 FUTA – tax credits
 - 3303 FUTA – experience rating/ additional credit
 - 302(a) SSA – admin grants
 - “Certification for grants is ongoing unless a conformity decision requires it to be withheld”

Certification and Conformity

- See also, 20 C.F.R. Part 601
- Federalregister.gov
 - Search by agency or keyword

Resolving Issues



Resolving Issues

- Identify Issues
- Informal Resolutions
- Notification in Writing
- Proceedings Initiated
- Hearing
- Recommendation
- Final Decision
- Appeal

Considerations

- Statutory authority v. administrative guidance will conflict – up to you to decide how to proceed
 - See, UIPL 01-96 “The Legal Authority of Unemployment Insurance Program Letters and Similar Directives”
- E.g., 42 U.S.C. 503(a)(11)
 - **(A)** At the time the State agency determines an erroneous payment from its unemployment fund was made to an individual due to fraud committed by such individual, the assessment of a penalty on the individual in an amount of not less than 15 percent of the amount of the erroneous payment; and
 - **(B)** The immediate deposit of all assessments paid pursuant to subparagraph (A) into the unemployment fund of the State.

Considerations

- But see, UIPL 02-12
- “If states wish to impose an additional penalty amount for a fraudulent overpayment in excess of the Federally-mandated penalty, the additional penalty does not need to be established in state law as a separate penalty. However, if a state has one penalty, its law must clearly identify each component designating how much is to be deposited into the state’s unemployment fund (minimum 15 percent of the amount of the overpayment) and how much is to be deposited in another fund. Uses of any additional penalty amounts are at the discretion of the state.”

Educating Public Officials

- Lay the ground work
 - Gather data or background information
 - List of stakeholders and key legislators
 - Buy-in for why the proposed policy is a priority
 - Financial implications
- Develop talking points and strategies
- Identify individuals/organizations to testify in support

Educating Public Officials

- AORTA
 - Accurate
 - You are the official data source.
 - Objective
 - Build credibility and bipartisanship
 - Relevant
 - Affect on your state's businesses and workers
- Timely
 - Have an agenda or be an agenda
- Accessible
 - Help with constituent issues.
 - Be the sounding board – kill bad bills before they make it to far.

Kansas Department of Labor

Brett Flachsbarth

Director of
Unemployment
Insurance

Brett.Flachsbarth@dol.ks.gov

Twitter: @KansasDOL

**Justin L.
McFarland**

Director of Labor
Market Information
Services &
Deputy General
Counsel

Justin.McFarland@dol.ks.gov