

REVISED
SESSION OF 2026

**SUPPLEMENTAL NOTE ON HOUSE SUBSTITUTE FOR
SENATE BILL NO. 229**

As Recommended by House Committee on
Commerce, Labor and Economic Development

Brief*

House Sub. for SB 229 would amend the statutory public policy statement related to the Employment Security Law (Law); create requirements for any substantive future changes to the Law; recognize Supplemental Unemployment Benefit Plans; make various changes to unemployment insurance (UI) benefits, rate schedules and solvency provisions, coverage for government employers, employer liability, employee classification, employee training programs, responsibilities of the Secretary of Labor (Secretary), and other miscellaneous provisions; and modernize language to conform with current electronic-based methods and ensure conformity with federal unemployment law.

The bill would also make technical and conforming amendments and provide definitions for various terms.

Public Policy (Section 4)

The bill would update the declared public policy of the State to include a section stating administration of the Law would be required to align with applicable federal standards and be coordinated with state workforce development initiatives to support timely reemployment, economic resilience, and long-term public confidence in the UI system.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <https://klrd.gov/>

The bill would require administration and interpretation of the Law remain in conformity with applicable federal laws and administrative guidance to ensure continued federal certification of Kansas' unemployment compensation program.

***Future Amendments to Employment Security Law
(Section 1)***

The bill would require future amendments to be in conformity with the stated intent of the Legislature, which would be that all provisions of the Law be administered with transparency, consistency, and fiscal integrity with an emphasis on long-term perspectives.

Legislative Review Requirements

The bill would require legislative amendments to the Law be enacted only upon review and consideration by the Legislature, to the extent practicable. Such review would include, at minimum:

- A formal actuarial impact analysis to assess potential effects on the UI Trust Fund (Trust Fund);
- Opportunity for public comment, with adequate notice and opportunity for stakeholder input from employers, labor representatives, economists, and the public;
- Hearings by the standing committees of both chambers responsible for labor, budget, or economic development policy, with opportunity for testimony by stakeholders, including employers, labor organizations, workforce development representatives, and employment security law experts; and

- Legislative debate and vote in accordance with the full customary legislative process for amending statutory law.

The bill states the intent of the Law would be met upon consideration, at a hearing and prior to taking action, of the record of such a review and consideration made by another committee responsible for labor, budget, or economic development policy of the same chamber.

Changes through Budget Provisos

The bill would allow changes, suspensions, or deletions of the Law affecting eligibility, definitions, benefit duration, or administrative procedures to be made by budget provisos, appropriations bills, or temporary fiscal measures if the legislative review process outlined above is followed by a committee responsible for labor, budget, or economic development policy of both chambers.

Otherwise, the bill would prohibit any budget provisos, appropriations bills, or temporary fiscal measures from:

- Amending the definition of “unemployment,” “employment,” “employer,” “employee,” or any other term defined in KSA 44-703 and amendments thereto, for purposes of the Law;
- Expanding, limiting, restricting, or modifying eligibility requirements for UI benefits, including, but not limited to, duration of benefits, work search requirements, temporary unemployment status, waivers or exemptions for specific employee groups, or reemployment program participation;
- Creating special classifications, selective exemptions, or exceptions to any provisions of the Law for specific groups of employees, employers, or industries, including, but not limited to, such

groups that are subject to collective bargaining agreements; or

- Altering any provision affecting the administration, funding, solvency, or disbursement criteria of the Trust Fund.

Statutory and Proviso Conflict Resolution

The bill would clarify the Legislature's intent that, in the event of a conflict, substantive portions of the Law would govern unless the Legislature expressly provides otherwise.

The bill clarifies that nothing would be construed to limit the Legislature's authority to amend, suspend, or repeal any provision of the Law through subsequent legislation, or to prohibit the Legislature from enacting temporary measures affecting the Law in response to a declared emergency. Such measures would be required to be expressly time-limited and subject to subsequent legislative review and action as specified in the bill.

Supplemental Unemployment Benefit Plans (Section 2)

The bill would state the Legislature intends to support responsible workforce transition strategies during temporary layoffs while safeguarding the fiscal integrity of the UI system. The bill would authorize employer-sponsored supplemental unemployment benefit plans (SUBs) meeting the Law's requirements as determined and authorized by the Secretary to serve as a voluntary, employer-funded mechanism to supplement state UI benefits.

SUB Authorization

The bill would allow SUBs to provide income support to employees who are involuntarily laid off due to lack of work and are eligible for state UI benefits. The Secretary would be required to recognize and authorize a SUB if a SUB:

- Is properly documented in writing and filed with the Secretary prior to implementation;
- Complies with applicable federal guidance, including Internal Revenue Service (IRS) rulings 56-249 and 90-72, and satisfies relevant requirements of 26 USC 501(c)(17) concerning trust arrangements for supplemental unemployment compensation benefits;
- Is funded entirely by the employer, and the supplemental unemployment benefits do not constitute wages for purposes of state UI calculations;
- Does not disqualify laid-off employees from receiving state UI benefits;
- Provides supplemental unemployment benefits to laid-off employees in periodic payments that align with the state UI benefit schedule. Lump-sum distributions would not qualify as valid supplemental unemployment plan payments; and
- Terminates supplemental unemployment benefit payments when laid-off employees become reemployed, are no longer eligible for state unemployment benefits, or otherwise fail to meet eligibility criteria established by the SUB or rules and regulations adopted by the Secretary.

My Reemployment Plan Requirement (Section 47)

The bill would require claimants receiving SUB benefits to participate in reemployment services unless otherwise exempted by the Secretary pursuant to this section.

Effect on Benefits

Notwithstanding any other provision of the Law, laid-off employees would not be denied UI benefits or have those benefits reduced, offset, or otherwise limited solely because the employee receives payment from a SUB if, as determined by the Secretary, such SUBs:

- Meet the SUB requirements listed above, including that such plans:
 - Are funded entirely by the employer;
 - Are provided only to employees who are unemployed due to lack of work and are eligible for state benefits under the Law;
 - Supplement rather than replace state unemployment compensation; and
 - Are not paid in a lump sum or in lieu of wages; and
- Comply with the criteria set forth in 26 USC 306(b) (9), IRS rulings 56-249 and 90-72, and applicable federal guidance.

Authorized SUB payments would not be considered wages or remuneration for purposes of eligibility or disqualification of UI benefits, the waiting week, or the calculation of weekly benefit amounts pursuant to the Law.

The bill would construe the SUB subsection to be in conformity with applicable federal law in accordance with the U.S. Department of Labor (USDOL) conformity guidance.

Nothing in the bill's provisions relating to total benefit entitlement during benefit year would be construed to alter the treatment of SUB payments. Any authorized SUB payments would not be considered wages, earnings, or disqualified income.

Effect on Employers

The bill would prohibit the inclusion of SUB payments in the computation of earnings and prohibit them from being used to reduce the amount of partial unemployment benefits otherwise payable under this section. (Section 7)

Authorized SUB payments would not be considered UI contributions and would not affect an employer's experience rating or taxable wage base. (Section 11)

Application of SUB Provisions

SUB provisions would apply uniformly to all employers and employees, regardless of union affiliation, industry classification, or business size. The Secretary and employer would be required to administer SUBs without discrimination and would be prohibited from providing disproportionate or preferential treatment to officers, executives, or specific employee classes except as may be required by federal law.

The bill would require that all provisions of the Law relating to SUBs be liberally construed to promote transparency, solvency, and fair access to UI compensation.

Changes to Unemployment Benefits (Section 6)

Eligibility (Section 9)

The bill would clarify that claimants receiving notice for refusing an offer of suitable work or failing to apply for suitable work have 10 business days from receiving notice to respond or submit evidence to contest the potential disqualification. Failure to respond could result in denial of benefits, subject to the appeal right provided by current law.

The bill would require the Secretary to consider the following criteria when determining if a claimant should be disqualified for refusing an offer of suitable work upon failing to apply for suitable work unless good cause is shown:

- The claimant's work history, skills, and past wages;
- Whether the offer involves comparable duties, conditions, and wages; and
- Whether the offer meets or exceeds the claimant's weekly benefit amount.

The bill would also prevent authorized SUB payments from affecting a claimant's eligibility determination, availability for work status, or job search requirements.

Payments

The bill would clarify that UI benefits would be paid from the Trust Fund, and would require the Secretary to announce the determined minimum weekly benefit by publication in the *Kansas Register*.

The bill would require the following services to be paid on equal terms and conditions as other covered services, except as modified under current law:

- Services for state, local, or tribal governments and political subdivisions, as well as joint instrumentalities with Indian tribes, are deemed employment; and
- Services for religious, charitable, or educational organizations are deemed employment.

Non-liability for Excess Benefits Payments (Section 30)

The bill would make the State and the Secretary not liable for a payment of any benefits in excess of the moneys available in the Employment Security Fund.

The bill would also prohibit claimants from having a vested right or legal claim to any amount of benefits beyond the amounts payable from available funds credited to the Employment Security Fund at the time such benefits become due.

Temporary Unemployment

If an individual is designated by the individual's employer as being on temporary unemployment as defined in current law, the individual's total benefit entitlement during the benefit year would be limited to an amount equal to the individual's determined weekly benefit amount multiplied by not more than eight weeks, regardless of the maximum number of weeks otherwise applicable under the section. Such limitation would only apply during the period in which the individual is designated as being on temporary unemployment and would not diminish the individual's remaining balance of benefit entitlement otherwise payable during the benefit year if the individual subsequently becomes fully unemployed.

Upon designation of an individual as being on temporary unemployment, the Secretary would be required to issue a monetary determination to the employer that submitted the designation. Such determination would be required to clearly state that:

- Benefits payable during the period of temporary unemployment are limited to not more than eight weeks; and

- Benefit exhaustion for purposes of temporary unemployment shall occur upon payment of eight weeks of benefits, unless an extension is approved pursuant to current law.

Benefits paid during a period of temporary unemployment, including any approved extension, would be charged in the same manner and to the same extent as other UI benefits paid during the benefit year and would not be treated as a separate or non-chargeable category of benefits.

Upon designation of an individual as being on temporary unemployment, the Secretary would be required to issue a written notice to the individual clearly stating that:

- Benefits payable during the period of temporary unemployment are limited to not more than eight weeks;
- Benefit exhaustion for purposes of temporary unemployment would occur upon payment of eight weeks of benefits, unless an extension is approved; and
- Such limitation applies only during the period of temporary unemployment and does not reduce the individual's remaining entitlement to benefits otherwise payable during the benefit year if the individual subsequently becomes fully unemployed.

Rate Schedules and Solvency Framework (Section 12)

The bill would require the Secretary to make available a secure, accessible electronic system for filing new employer elections and submitting supporting documentation to streamline compliance and support interstate business mobility.

The bill would modify the rate tables to discontinue negative balances.

If the Secretary determines a primary purpose of a business transfer is to reduce the UI contribution rate, the Secretary would be authorized to deny the transfer of experience or impose necessary corrective adjustments to preserve the integrity of the UI system.

When determining intent, the Secretary would be required to consider objective criteria, including the items listed in the bill. The bill would require the Secretary to establish by rules and regulations a standardized process, including required documentation, to verify payroll percentages and to support approval.

The bill would require the Secretary to publish, no later than 30 days before January 1 of each calendar year, for the 4 most recent rate years and the upcoming rate year, a comprehensive summary of rate schedules and a comprehensive summary of employer tax liability per employee. For each year, both summaries would be required to include information as listed in the bill.

Beginning in 2027, and each year thereafter, the Secretary would be required to make downloadable rate calculators or secure online planning tools available to assist employers in estimating UI contribution rates and projected liabilities. Such tools would be designed to promote transparency, support financial planning, and improve compliance. The calculators would need to incorporate current reserve ratios, rate groups, and wage bases, and be updated annually in conjunction with the publication of contribution schedules.

Standardized Dispute Resolution System (Section 13)

The bill would require the Secretary to develop and maintain a standardized reporting and dispute resolution

system allowing employers to electronically report suspected fraud or improper benefit charges, submit supporting documentation, and receive updates on the status of investigations, findings, and resolutions. Upon completing a review of any reported improper charge, the Secretary would be required to issue a written determination explaining the items as listed in the bill.

Account Activity Monitoring System (Section 13)

The bill would require the Secretary to develop and maintain an online system enabling employers to monitor, report, and respond to account activity.

Employers would be granted secure digital access to their unemployment tax and benefit charge accounts at all times, including ability to review real-time charges, monitor account activity and status, and submit disputes or requests related to possible improper charges. The Secretary would be required to develop and maintain the system in accordance with the objectives listed in the bill.

Improper Payment Review and Corrective Action (Section 13)

The bill would require the Secretary to conduct a comprehensive review and analysis of improper payment data. Based on the review's findings, the Secretary would be required to complete the analysis as listed in the bill and publish a summary report of the analysis on the Kansas Department of Labor's (Department) website subject to the protection of confidential claimant or employer information.

Any resulting corrective actions would need to be completed within 180 days of the bill's enactment and updated annually thereafter until the improper payment rate is within federal thresholds.

Repayment of Loans for Employment Security Fund Debt Obligations (Section 19)

The bill would require repayment within 12 months, unless extended, of the initial disbursement of Pooled Money Investment Board loans for the purpose of repaying debt obligations owed to the federal government by the Employment Security Fund. Upon initiating a loan, the Secretary would be required to notify the Governor and other legislative recipients as specified in the bill.

Government Employers (Section 14)

The effective date of an election to become a rated governmental employer would be the beginning of the calendar quarter following receipt and confirmation of the election by the Secretary.

If a government employer is acquired by another governmental employer, and the acquisition includes all employment, the successor would receive the predecessor's full experience history. In partial acquisitions, the transfer would be based on payroll or employee headcount as determined by the Secretary.

Restrictions on Taxing Entity Coverage (Section 15)

Under continuing law, governmental entities that have taxing authority are authorized to levy a tax to cover the cost of UI benefits for their employees and, in lieu of such tax, to pay such costs from an employee benefit contribution. The bill would require all expenditures made pursuant to such payments be:

- Identified as a separate line item in the governmental entity's annual budget; and

- Subject to applicable accounting, reporting, and audit procedures established by the Secretary of Administration.

The Secretary would be authorized to establish standardized forms and secure electronic systems for the submission of UI-related data to promote consistency, transparency, and compliance.

The Secretary would be required to periodically assess and publish guidance on funding adequacy and fiscal practices related to UI costs for governmental entities operating under this section. During calendar year 2028, and every six years thereafter, the Legislative Post Audit Committee and the Secretary would be required to jointly review the financial impact and utilization trends of UI pursuant to this section to ensure compliance with Trust Fund sustainability goals and local government budget transparency.

The Secretary would be required to coordinate with the Director of Accounts and Reports and organizations representing local governments and promoting local governmental interests to ensure consistent application, provide technical assistance, and share best practices regarding funding approaches permitted under this section.

The bill would define “employee benefits contribution fund” and “unemployment insurance benefits” for this section.

County Coverage of District Court Employees (Section 16)

The bill would require each county subject to the Law to provide UI coverage for all officers and employees of the district court whose total compensation is paid exclusively from county funds. Coverage would mean inclusion under the county’s elected financing method, including all applicable wage reporting and contribution or reimbursement obligations.

In cases where a district court officer or employee's compensation is partially funded by a county and partially funded by the State or other non-county source, the individual would be eligible for coverage under the county's UI plan if 50 percent or more of the individual's total compensation is paid from county funds.

This section would not apply to individuals serving as district judges, magistrate judges, or other judicial officers compensated exclusively by the State or to independent contractors or individuals whose employment does not meet the employment definition in current law.

Counties would be required to include all eligible district court personnel in quarterly wage reports and UI filings submitted to the Department and annually certify to the Department, in a form prescribed by the Secretary, that all officers and employees of the district court eligible under this section are appropriately covered for UI purposes.

The provisions for district court employee coverage would be subject to a sunset review in December 2028 and every eight years thereafter.

As part of the review process, the Department would be required to evaluate the fiscal, administrative, and legal effects of the section and submit a written report to the standing committees of the Senate and the House of Representatives to which legislation pertaining to the Law is customarily referred. The report would be submitted on or before January 15, 2029, and January 15 of every eight years thereafter.

Employer Liability

Contribution Liability (Section 18)

The bill would require the Secretary to conduct an annual review of all employer accounts with no reported

employment or wages for the three preceding calendar years and would allow the Secretary to initiate termination proceedings.

Any employing unit not otherwise subject to the Law would be able to file a written or electronic election with the Secretary to become subject to the Law. The bill would prohibit such electing units from changing their decision for a period of two complete calendar years.

Upon approval by the Secretary, the unit would become subject to the Law as of the effective date indicated by the Secretary. Unless specified otherwise, this date would be the first day of the calendar quarter following the Secretary's approval date.

A unit subject to the Law as of January of any calendar year, and after two complete years of being subject to the law, could terminate its voluntary participation by filing a termination application with the Secretary no later than May 1 of such year.

All notices, applications, and elections under this subsection would be required to be submitted in writing or through a secure electronic portal provided by the Department.

Transfers of Contribution Liability (Section 18)

If an employer transfers their experience rating account, the predecessor employer would cease to be subject to the Law as of the effective date of the transfer to the successor and the successor would become liable for contributions on and after the date of acquisition unless otherwise provided by law. The bill would also require the termination of the predecessor's account as of the date of acquisition.

In cases of partial acquisition, the Secretary could authorize a proportional transfer of the predecessor's experience rating account based on payroll, employee count, or other relevant factors in accordance with current law, or pursuant to rules and regulations or internal guidance established by the Secretary.

If the successor elects not to assume the predecessor's account or is not otherwise subject to the Law, the Secretary would be required to determine whether a new account should be established and whether a new liability determination should be required.

All notices, applications, and elections required under this section could be submitted by certified mail, personal delivery, or through a secure electronic portal established and maintained by the Secretary.

The Secretary would be required to issue written or electronic confirmations of receipt of such communications.

Collections and Penalties (Section 26)

The bill would authorize the Secretary to recommend periodic review by the Legislature of the waiver of interest threshold for the purpose of maintaining equity for small employers and alignment with inflationary changes. [*Note:* The current threshold is \$5.]

The bill would prohibit holding an officer, member, manager, or public official personally liable for an employer who willfully fails to make payments under this section if the Secretary determines the individual meets the requirements listed in the bill. The burden of establishing such a safe harbor defense with the Secretary would rest with the individual asserting the defense.

The bill would require employers and third-party administrators with 10 or more employees or client employees to electronically file all wage reports and contribution returns and electronically submit all required payments. [Note: The current threshold is 25 or more employees or client employees.]

Withholdings (Section 27)

The bill would create an unclassified nonperson misdemeanor penalty for any employer or officer or agent of an employer who arranges for a claimant to waive, release, or commute unemployment compensation rights for a second or subsequent offense. The penalty would be a fine of not less than \$500 and no more than \$5,000, imprisonment for up to one year, or both. [Note: Current law only contains a penalty for the first offense.]

The bill would not prohibit representation of a claimant by a nonprofit legal aid organization or *pro bono* counsel authorized under applicable law.

Counsel and agents representing a claimant would be required to adhere to rules and regulations governing such representation as adopted by the Secretary. Such rules and regulations would be in addition to the professional conduct or rule of the Kansas Supreme Court governing attorney conduct. If there is a conflict between such a rule and the Secretary's rule or regulation, the Supreme Court rule would govern.

The agency administering or enforcing child support obligations would be required to reimburse the Secretary for administrative costs incurred by the Secretary in implementing this subsection. The Secretary and such agency could enter into a memorandum of understanding for the purpose of governing implementation of this section and reimbursement to the Secretary of such administrative costs.

Fraud (Section 28)

The bill would update the penalty for employer fraud or misrepresentation by increasing the fine to up to \$1,000. The Secretary would be authorized to adopt rules and regulations to establish a graduated penalty schedule for repeat or egregious violations.

The Secretary could authorize repayment through an installment plan for overpayments not due to fraud if such arrangement would mitigate financial hardship and facilitate recovery. The Secretary would be required to adopt rules and regulations to establish the terms of a repayment agreement.

Interest for overpayment not due to fraud would begin to accrue two years after the date of the final determination and would not exceed 50 percent of the original overpaid amount unless the Secretary grants an exception for extraordinary circumstances pursuant to rules and regulations adopted by the Secretary.

The bill would allow the Secretary to waive or reduce applicable penalties or interest if a claimant or employer voluntarily self-reports an overpayment, erroneous claim, or misclassification prior to an audit or enforcement action. If the Secretary establishes fraud or willful misrepresentation did occur, the Secretary would be required to reimpose the penalty or interest. The bill defines “final determination” for purposes of this subsection.

Federal Unemployment Tax Repeal Effects (Section 32)

If the federal unemployment tax law was repealed or declared unconstitutional, the bill would immediately suspend the obligation to pay UI contributions and benefits.

If unobligated funds in the Employment Security Fund or amounts returned from the federal Unemployment Trust Fund are made available to the State, such funds would be

refunded to contributing employers in proportion to prior contributions and the Secretary would be required to establish rules and regulations for the procedures and timeline of issuing refunds consistent with federal guidance.

Nothing in this section would be construed to prohibit the Legislature from establishing an alternative unemployment benefit program or financing mechanism if the federal-state system is modified or discontinued. This section would be interpreted and applied by the Secretary in conformity with federal law and regulations issued by USDOL to ensure proper administration of refunds and continued eligibility for federal unemployment program certification.

Lessor and Staffing Firms Liability (Section 36)

The bill would make lessor employing units also liable for UI interest and penalties on wages paid for performing services for client lessees. The bill would authorize the Secretary to establish rules and regulations as necessary to enforce the section and resolve liability disputes between lessor employing units and client lessees.

The bill would also define, for purposes of a subsection, “temporary help basis” to mean the assignment of workers to a client to meet short-term workload demands, seasonal needs, or to fill in for absent regular employees.

Employee Misclassification

Prohibited Conduct and Misclassification Fund (Section 39)

The bill would authorize the Secretary to refer for prosecution suspected violations of employee misclassification by employers and allow criminal prosecutions and enforcement of civil penalties.

Any civil penalties would be remitted by the Secretary to the State Treasurer (Treasurer). Upon receipt, the Treasurer would be required to deposit the entire amount into the Employment Misclassification Enforcement, Education and Claimant Support Fund, created in the State Treasury and administered by the Secretary. All expenditures would need to be approved by the Secretary and only used for items as listed in the bill.

Determination of Misclassification (Section 41)

When considering the determination of an employee misclassification, the bill would add another option for deeming a business to have reasonable basis for classification. Such reasonable basis would include if the business reasonably relied on classification practices customary among a significant segment of the business' industry, supported by published industry data, guidance, or documented standards.

The Secretary would be required to provide educational guidance and could assist businesses in identifying facts or factors relevant for classification. Such guidance would not be binding for future determinations based on different facts.

In accordance with the rules and regulations adopted under the Law, the bill would authorize the Secretary to impose penalties proportionate to the degree of culpability if a misclassification was determined and no reasonable basis exists. The Secretary would be authorized to adopt rules and regulations to define penalty waiver criteria, mitigating factors, and other items as listed in the bill.

Worker Misclassification Report (Section 42)

The bill would update the annual report on worker misclassification, produced by the Department, to summarize enforcement activities conducted during the preceding calendar year. The Secretary would be required to publish

each annual report on the Department's website within 30 days of transmitting the report to the Legislature.

The bill would also authorize the Secretary to include optional contextual and supplemental information in the report, and categorize investigations into certain categories as listed in the bill.

Department of Revenue Misclassification Referrals (Section 40)

The bill would require the Secretary to notify a business referred to the Secretary by the Department of Revenue for worker misclassification of any UI contributions due pursuant to the Law once a determination was made about the misclassification.

The bill would authorize the Secretary and the Secretary of Revenue to adopt joint rules and regulations or enter into a memorandum of understanding to address interagency collaboration and outreach, including the items listed in the bill.

Employer Outreach, Voluntary Compliance, and Safe Harbor (Section 39)

The Secretary would be authorized to issue guidance or opinions to clarify factors relevant to employment status determination and to develop and distribute educational materials, conduct outreach, and provide technical assistance to employers regarding proper worker classification.

Employee Training Programs

In-service Training (Section 21)

Pursuant to applicable federal workforce training and UI administration provisions, including, but not limited to, the

Workforce Innovation and Opportunity Act, 29 USC 3101, and any successor statutes, the Secretary could accept and expend assistance from the U.S. Secretary of Labor or other authorized federal agency to conduct in-service training for individuals engaged in or preparing for service in the administration of the Law.

Such training could be provided directly by the Secretary or through contracts, grants, or cooperative agreements with certain public or private institutions, agencies, boards, or institutions.

The bill would allow certain programs and courses related to, but not limited to, UI program administration and operations, fraud detection, system modernization, and customer service.

The Secretary would be required to periodically review training programs to ensure alignment with federal and state priorities, technology advancements, and program integrity requirements. The Secretary would be required to submit an annual report to the appropriate standing legislative committees summarizing the training metrics listed in the bill.

Employment Security Insurance Act for Domestic Violence Survivors (Section 37)

The bill would establish definitions, procedures, training requirements, and benefit protections for individuals who voluntarily separate from employment or are otherwise affected by domestic violence circumstances. The bill would establish definitions as listed in the bill.

The Secretary would be required to develop and implement a domestic violence training curriculum for all employees who interact with claimants or provisions of the Law. The training program would be required to have approval from the state domestic violence and sexual assault coalition designated by the Centers for Disease Control and

Prevention or the U.S. Department of Health and Human Services. Curriculum would be required to be periodically updated and address sensitivity, confidentiality, and available protections for affected claimants.

The Secretary would be prohibited from charging employers for benefits paid to a claimant due to circumstances related to domestic violence. The Secretary could adopt rules and regulations for the purpose of implementing the provisions of this section.

Miscellaneous Provisions

Trust Fund Data Requirements (Section 46)

The bill would require all Trust Fund data to meet certain requirements as listed in the bill.

UI IT System Requirements (Section 44)

The bill would impose an additional requirement on the state's UI IT program, requiring its system infrastructure to remain modern, secure, and capable of withstanding increased demand and evolving threats while maintaining transparency, program integrity, and responsiveness to stakeholders.

Paymaster Arrangements (Section 17)

The bill would require employers electing to use a common paymaster agreement to notify the Secretary in the manner prescribed by the rules and regulations adopted by the Secretary and to maintain documentation substantiating the allocation and disbursement of wages under the arrangement.

Employee Recognition (Section 20)

The bill would authorize the Secretary to recognize meritorious service by employees engaged in the administration of the Law if more than 50 percent of the employee's total compensation is paid from the employment security administration fund. A meritorious service award, as defined in current law, pin, and certificate could be granted by the Secretary to eligible employees upon:

- Completion of 5 years of continuous or cumulative satisfactory service in the administration of the Law and each additional 5-year period thereafter; and
- Retirement, or reaching major career milestones, including, but not limited to, completing 25, 30, 35, or 40 years of service.

The bill would authorize the Secretary to authorize additional forms of modest, non-cash recognition for meritorious performance, such as plaques, framed commendations, or formal acknowledgments, if such awards are reasonable in cost and conform to federal grant and conformity requirements, including those provisions listed in the bill. All award costs would:

- Be paid from the Employment Security Administration Fund;
- Not exceed the allowable per-employee cost limits set in current law;
- Not require legislative appropriation; and
- Be processed in the same manner as other administrative expenses under the Law.

Mandated Reporting of Refusal to Hire (Section 43)

The bill would require an employer to report to the Secretary any refusal to hire a job applicant based on misconduct as described in current law. The report would be required to include the individual's name and last known address, basis for refusal, and any other additional information required by the Secretary.

The bill would require a report to be submitted through a secure, electronic submission platform and within seven business days of the refusal date. Within five days of receiving a report, the Secretary would be required to notify the individual in writing that a report was filed and could be considered when evaluating the individual's eligibility for UI benefits.

The individual would be afforded the opportunity to provide a written response or explanation within 10 days of receiving notice. If the response is received timely, the Secretary would be required to consider the response in determining benefit eligibility. Such reports and responses would be treated as confidential and subject to disclosure only under applicable law.

Reports received could be used by the Secretary in the manner provided in the bill.

The bill would define "job applicant" for purposes of this section.

Additional Responsibilities of the Secretary

Monitoring and Reporting of SUBs (Section 2)

The bill would require the Secretary to maintain and publish a registry on the Secretary's website of authorized SUBs submitted by employers to the Secretary and could

offer technical guidance to assist employers in developing compliant SUBs.

The bill would require the Secretary to monitor the interaction between SUBs and state UI claims to ensure continued solvency of the Trust Fund. For FY 2026, and each fiscal year after, the Secretary would be required to publish the following information on the Secretary's website on or before December 1 following the end of the fiscal year in conjunction with information required to be published under current law, and report such information to the Legislature at the beginning of each succeeding legislative session:

- The number of active supplemental unemployment benefit plans on file;
- Aggregate claimant data for laid-off employees concurrently receiving supplemental unemployment benefits and state UI benefits; and
- Any actuarial analysis or findings concerning the impact of supplemental unemployment benefit plan usage on the Employment Security Trust Fund.

If the Secretary finds SUB usage materially increases UI costs that may affect the Trust Fund for all other rated employers, the bill would require the Secretary to advise the Legislature in the report and recommend modifications to program regulations or propose statutory amendments to mitigate the adverse effects.

Government Employer Review and Reporting (Section 14)

The bill would require the Secretary to annually publish information related to government employers on the Department's website, including a table that provides the following:

- Summary of the average experience factor;

- Total wages;
- Total benefits charged; and
- Statewide adjustment factor used in the calculation of each year's benefit cost rates.

The Secretary would be required to provide a rate estimator tool to help governmental employers forecast quarterly and annual UI costs under each model described in the section.

The bill would require the Secretary conduct a performance review of the benefit cost rate computation methodology in the section during calendar year 2028, and at least once every eight years thereafter. Such review would require an actuarial evaluation and legislative oversight.

The Secretary would be required to complete and submit the review report, along with any recommendations, no later than December 1 of the applicable review year to the standing committees of the Senate and the House of Representatives to which legislation pertaining to the Law is customarily referred.

Kansas State Employment Service (Section 23)

The bill would require the Secretary to:

- Promote coordination of the state employment service with other labor exchange systems;
- Ensure services delivered under the section are aligned with the Kansas State Workforce Development Plan and conform with federal law;
- Monitor the performance of employment offices based on federal and state outcome measures; and

- Annually report to the Governor and Legislature a summary of employment service activities, partnerships, funding, and performance benchmarks. Such summary could be integrated into the Department's workforce or administrative report.

Employment Security Fund Certification (Section 19)

The Secretary would be required to submit a certification by December 1 of each year evaluating the solvency and adequacy of the Employment Security Fund to the Governor and other legislative recipients as listed in the bill. The certification would require the inclusion of at least the items as listed in the bill under subsection (G)(2)(A).

Following the certification, the bill would require the Secretary to make the certification and supporting data publicly accessible through the Department's website, including downloadable data sets and dashboards, no later than December 31 following the December 1 certification deadline. No later than January 31 following the certification, the bill would require the Secretary to provide a summary briefing to the standing committees of the Senate and the House of Representatives to which legislation pertaining to the Law is customarily referred.

Employment Security Administration Fund (Section 24)

In addition to technical, modernizing, and conforming changes, the bill would require the Secretary to ensure that all expenditures from the Employment Security Administration Fund comply with federal cost principles and administrative requirements, including those in 2 CFR 200 and 2 CFR 601.

The bill would require the Secretary to include in the Department's annual report to the Governor and the Legislature a summary of the items listed in the bill.

Special Employment Security Fund (Section 25)

The bill would require the Secretary to annually report to the Governor and Legislature a summary of the Special Employment Security Fund's activity, including the items listed in the bill.

UI Technology System Requirements, Reviews, and Audits (Section 44)

The bill would require the Secretary to ensure the state's UI IT system be:

- Scalable to accommodate claim request fluctuations; and
- Equipped with system redundancy, operational continuity, and disaster recovery features.

The bill would require the Secretary to review and assess the UI technology system for upgrades and improvements at least every 18 months. Each review would be required to assess:

- System capacity;
- Security posture;
- Service performance; and
- Federal and state guidance compliance.

The bill would require the Secretary to audit at least every 24 months program integrity tools as defined in current law. Such audit would evaluate each tool based on criteria listed in the bill. The bill would require the Department to annually publish anonymized, aggregate metrics as listed in the bill.

The Secretary would be required to:

- Review any program integrity guidance issued by USDOL or the National Association of State Workforce Agencies, including the data integrity hub, within 15 business days of issuance;
- Publish on the Department's website a summary of such guidance within 45 days of issuance whether the Secretary will adopt, partially adopt, or decline such guidance; and
- Promptly submit each summary to the Governor, Legislative Coordinating Council (LCC), and legislators as identified in the bill.

UI Claim Cross-checks (Section 44)

The Secretary would be required to perform certain checks on UI claims at minimal intervals of at least:

- Weekly, for incarceration and out-of-state claims databases;
- Biweekly, for Social Security Administration and new hire directories; and
- Monthly, for systematic alien verification and suspicious actor repositories.

The Secretary would be required to establish written protocol for resolving discrepancies identified during the checks as listed in the bill.

The bill would require the Secretary to review every two years any memorandum of understanding with any other agency where information pursuant to this section is shared for accuracy, security, and necessity and include specific provisions addressing data-sharing limits, confidentiality, transmission, and breach notification requirements.

The Secretary would be required to annually review and update rules and regulations to reflect operational changes and program enhancements and submit such changes to the Secretary of Administration for purpose of initiating the rule and regulations filing process no later than July 1, 2027, and July 1 of each year thereafter.

Prior to adopting or revising such rules and regulations, the Secretary would be required to consult with stakeholders as listed in the bill. In addition to any public hearing required by current law, the Department would need to conduct at least one public hearing on any proposed regulations and provide a public comment period of at least 30 calendar days prior to submitting proposed rules and regulations to the Secretary of Administration.

The bill would modify the Secretary's annual status update to the Unemployment Compensation Modernization and Improvement Council as noted in the bill.

Failure to meet a deadline in this section would require the Secretary to submit within 30 days a written explanation, revised implementation plan, and estimated completion date to the LCC and the chairpersons of the standing committees of the Senate and the House of Representatives to which legislation pertaining to the Law is customarily referred.

*Review and Reporting of Tax Consequences for Claimants
(Section 45)*

The bill would require the Secretary to publish information related to income tax effects of any unemployment benefits the claimant may receive. Such information would be required to include certain items as listed in the bill.

The Secretary would be required to annually review and update the information and materials to reflect changes in state and federal income tax laws, withholding rates, or

benefit structures. Updated withholding amount estimates would be required to be published by January 15 of each calendar year.

Identity Verification (Section 48)

The bill would require the Secretary to develop and publish an identity verification form no later than July 10, 2026, and maintain a publicly accessible list of participating law enforcement agencies that is updated at least quarterly. All information collected or transmitted under this section would be confidential and subject to current employment security law related to record confidentiality.

Additional Requirements (Section 43)

The bill would require the Secretary to make the reporting form and submission procedures pertaining to mandated employer reporting of refusal to hire publicly available on the Department's website and permit publication of explanatory materials to assist employer compliance.

Rules and Regulations Authority

The Secretary would be required to adopt rules and regulations to:

- Implement the SUB provisions, including, but not limited to (Section 2):
 - Procedures for submission, review, and approval of supplemental unemployment benefit plans;
 - Employer reporting and documentation requirements;
 - Oversight and audit mechanisms to ensure plan compliance and fiscal responsibility; and
 - Alignment with federal standards;

- Administer and oversee the registration, compliance, and audit of approved SUBs, including procedures for plan submission, approval, revocation, and periodic reporting (Section 22); and
- Govern submission procedures for required communications related to employer contribution liability and election and termination of coverage (Section 18).

The bill would authorize the Secretary to adopt rules and regulations to:

- Implement UI coverage of county district court officers and employees and define and administer eligibility thresholds for such employees when compensated under shared funding arrangements (Section 16);
- Administer and enforce provisions related to paymaster arrangements, including procedures for registration, audit, and correction of misreported wage information (Section 17);
- Carry out provisions related to the Employment Security Fund (Section 19);
- Carry out provisions related to the Secretary's responsibilities with regard to the Kansas State Employment Service (Section 23);
- Establish procedures to ensure timely notification to enforcement agencies and consistent application of withholding obligations in accordance with applicable federal and state law, including deadlines for notice and remittance (Section 27);
- Clarify factors relevant to employment status determination (Section 39);

- Establish a voluntary compliance and safe harbor program for programs that comply in good faith with program requirements established in the bill (Section 39);
- Administer provisions mandating employer reporting of refusal to hire for misconduct (Section 43); and
- Ensure compliance with and administer the provisions related to identity verification, including procedures for electronic submission, data security, and interagency coordination (Section 48).

Background

The House Committee on Commerce, Labor and Economic Development inserted the contents of HB 2764, as amended by the House Committee, into SB 229 and recommended a substitute bill be passed.

The contents of SB 229, as amended by the Senate Committee on Commerce, relating to occupational licenses, was inserted into SB 30.

HB 2764 (Employment Security Law)

The bill was introduced by the House Committee on Commerce, Labor and Economic Development at the request of Representative Tarwater.

House Committee on Commerce, Labor and Economic Development

In the House Committee hearing, **proponent** testimony was provided by a representative of Kansas Contractors Association, Kansas Restaurant and Hospitality Association, NFIB, and SHRM Kansas; and representatives of Kansas

Chamber of Commerce and O'Reilly Management Corporation. The proponents generally stated the bill would provide a compliant, well-administered, and solvent UI system. It was noted benefits, durations, or employer surcharges would not be affected.

Written-only proponent testimony was provided by a representative of American Implement.

Opponent testimony was provided by representatives of the Kansas Department of Labor and Working Kansas Alliance. The opponents generally stated the bill represents a fundamental revision of the Law. It was noted there was concern about making numerous changes to the law soon after implementing the new online system. There was also concern about whether the bill accurately reflected a compromise reached between members of an unemployment council.

Written-only opponent testimony was provided by representatives of IBEW 124 and Kansas AFL-CIO.

No other testimony was provided.

The House Committee amended the bill to:

- Clarify the legislative amount of review, consideration, deference, and limitations;
- Remove sections 11, 12, 38, and 40 of the bill as introduced;
- Require employers or third-party administrators with 10 or more employees or client employees to file certain documents and payments electronically; and
- Make technical and conforming amendments.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on HB 2764, as introduced, the Kansas Department of Labor noted enactment of the bill would increase State General Fund expenditures by \$2.4 million in FY 2027, with \$430,820 ongoing in future years. Implementing provisions of the bill would also require 5.00 additional positions. The agency states that the changes to unemployment law would require substantive reprogramming, testing, and training for the unemployment system and internal unemployment processes. The one-time cost for these changes is estimated at \$1.9 million.

The 5.00 positions would be necessary for completing the required annual mailings, meeting new appeals requirements, tracking and reporting of various unemployment information, and completing internal audits of various processes and systems. There would also be annual administrative costs for the mailings, programming requirements, tracking, and training. The ongoing costs for the positions and other administrative needs are estimated at \$430,820. The agency also notes there would be an impact on the Unemployment Trust Fund as the bill would make it easier for claimants to qualify for benefits, which would increase benefit payments and decrease the Trust Fund balance. The tax tables would also be adjusted, increasing the tax rates for negative-rated employers. The agency anticipates that the increase in revenues would offset the increase in benefit payments, but an overall fiscal effect on the Trust Fund cannot be estimated.

The Department of Administration states enactment of the bill would not result in a fiscal effect for the agency. A request to provide fiscal effect information has also been sent to the Office of the Attorney General and the Office of Judicial Administration. The fiscal note will be updated if there are fiscal effects for these agencies. Any fiscal effect associated with HB 2764 is not reflected in *The FY 2027 Governor's Budget Report*.

The Kansas Association of Counties reports that there are provisions of HB 2764 that could result in a fiscal effect for counties, such as new requirements and unemployment benefit standards, as well as court costs associated with filings and procedures that occur for any violations of the new employment requirements. There could also be costs related to meetings, documentation, filing, and assessments required to ensure counties are updating and maintaining procedures. Because counties would be able to levy tax revenues to fund UI benefit obligations, this bill could impact revenues. A total fiscal effect for counties cannot be estimated. Responses for requests to provide fiscal effect information have not yet been received from the League of Kansas Municipalities or the Kansas Association of School Boards for the effect on cities and school districts as employers.

Employment security; unemployment insurance; legislative review; supplemental employer benefit plans