

Substitute for HOUSE BILL No. 2196

By Committee on Commerce, Labor and Economic Development

3-2

KDOL Proposed Amendments for Sub HB 2196 HCOW
Senate Committee on Commerce
March 23, 2021
Prepared by the Kansas Department of Labor
Revised and additionally prepared by Charles Reimer
Office of Revisor of Statutes

1 AN ACT concerning employment security; creating the unemployment
2 compensation modernization and improvement council; providing for
3 an audit to be conducted by the council; providing for development of a
4 new unemployment insurance information technology system; claimant
5 tax information; website publication of trust fund data; maximum
6 benefit period; charging of employer accounts for benefits paid;
7 employment security board of review and emergency expansion
8 thereof; employer contribution rate determination and schedules;
9 ~~abolishing the employment security interest assessment fund; crediting~~
10 ~~employer accounts for fraudulent or erroneous payments; transferring~~
11 ~~moneys from the state general fund to the unemployment insurance~~
12 ~~trust fund for improper benefit payments; services performed by~~
13 ~~petroleum landmen; lessor employment unit employee leasing~~
14 ~~restrictions; shared work compensation program; establishing the my~~
15 ~~reemployment plan; providing job search and job matching assistance~~
16 ~~to claimants and employers; providing for workforce training program~~
17 ~~availability for claimants; making and concerning appropriations for~~
18 ~~the fiscal years ending June 30, 2021, and June 30, 2022 {2021~~
19 ~~through 2028}; {changing the benefit disqualification period for~~
20 ~~fraud;}~~ amending K.S.A. 44-758 and K.S.A. 2020 Supp. 44-703, 44-
21 704, {44-706,} 44-705, 44-709, 44-710, 44-710a, 44-710b and 44-757
22 and repealing the existing sections.

disclosure of information;

, K.S.A. 44-714,

23
24 *Be it enacted by the Legislature of the State of Kansas:*
25 New Section 1. (a) (1) There is hereby created the unemployment
26 compensation modernization and improvement council. The council shall
27 consist of ~~11~~ {13} members appointed as follows:
28 (A) ~~Two~~{Three} members who, on account of their vocation,
29 employment or affiliations, may be classed as representative of employers,
30 ~~to~~ {one of whom shall} be selected by the ~~workers compensation and~~
31 ~~employment security boards nominating committee established under~~
32 ~~K.S.A. 44-551, and amendments thereto, and appointed by the governor{,~~
33 **one by the speaker of the house of representatives and one by the**
34 **president of the senate};**
35 (B) ~~two~~{three} members who, on account of their vocation,
36 employment or affiliation, may be classed as representative of employees,

1 (2) system improvements or upgrades that will maximize
2 responsiveness for individuals and employers;

3 (3) methods for information and data sharing across agency systems
4 related to unemployment compensation to maximize efficiency;

5 (4) system improvements or upgrades relating to system integrity by
6 reporting vulnerabilities and recommended system enhancements to
7 include identity verification and protection, social security administration
8 cross-match, systematic alien verification for entitlement, incarceration
9 cross-matches, interstate connection network, internet protocol address and
10 data mining and analytics to detect and prevent fraud. Such data mining
11 and analytics shall include current and future recommendations by the
12 United States department of labor and the national association of state
13 workforce agencies, including suspicious actor repository, suspicious
14 email domains, foreign IP addresses, multi-state cross-match, identity
15 verification, fraud alert system, and other assets provided by the
16 unemployment insurance integrity center; and

17 (5) methods for synergizing user experience across multiple programs
18 administered or supervised by the secretary of labor.

19 (g) (1) The council shall conduct an audit that shall examine the
20 effects on the department of labor and the unemployment insurance system
21 of fraudulent claims and improper payments during the period of March
22 15, 2020, through March 31, 2022, and the response by the department of
23 labor to such fraudulent claims and improper payments during that period.
24 The council shall select an independent firm to conduct the audit. The
25 auditor shall have access to all confidential documents. The scope of the
26 audit shall include, but not be limited to, the amounts and nature of
27 improper payments and fraudulent claims, fraud processes and methods
28 and the possibility of recovery of any improper payments. The audit shall
29 also include, but not be limited to, an evaluation that provides likelihood
30 of a data breach being a contributing factor to any fraudulent payments,
31 improper network architecture allowing a potential breach to have
32 occurred and a timeline of relevant events. The independent firm shall
33 make a preliminary report to the council by May 1, 2022, and a final report
34 by September 1, 2022, that shall be made publicly available by the council.
35 The preliminary report should include, but not be limited to, an evaluation
36 of systems with access to the payment and processing of claims, forensic
37 endpoint images related to the claims and the external perimeter housing
38 the claims systems, as well as an evaluation of the department of labor's
39 response to claims. Any confidential information shall be redacted and
40 shall not be made public. The audit shall be paid for by the state, subject to
41 appropriations therefor.

42 (2) The council may hold an executive session that shall not be public
43 under the Kansas open meetings act for the purpose of hearing and

The council's report, and any subsequent report provided, shall also include information on the progress regarding secretary's implementation of all program integrity elements and guidance issued by the United states department of labor and the national association of state workforce agencies as described in subsection (e) of section 2, and amendments thereto.

1 discussing any confidential portions of the audit. The council shall follow
2 the provisions of K.S.A. 75-4319, and amendments thereto, when
3 conducting such an executive session.

4 (h) The council shall not examine the solvency of the unemployment
5 compensation fund created by K.S.A. 44-710a, and amendments thereto,
6 or changes that would either increase or reduce benefits paid from the
7 fund.

8 (i) The secretary of labor shall appoint an executive secretary of the
9 council, and the executive secretary shall attend the meetings of the
10 council. The executive secretary's duties shall include:

11 (1) Maintaining council agendas and assisting in planning meetings
12 and conferences;

13 (2) attending meetings and keeping minutes;

14 (3) receiving and screening phone calls and redirecting phone calls
15 when appropriate;

16 (4) handling and prioritizing all official outgoing or incoming regular
17 mail or electronic correspondence;

18 (5) making travel arrangements for members related to council
19 business;

20 (6) handling confidential documents and ensuring they remain secure;

21 (7) maintaining electronic and paper records and ensuring such
22 information is organized and easily accessible; and

23 (8) conducting research and preparing presentations or reports as
24 assigned by the chairperson or the secretary of labor.

25 (j) (1) The council shall only have access to records of the department
26 of labor that are necessary for the administration and duties of the council.
27 The council shall not have access to any confidential or personal
28 identifying information. The council may request that the secretary of
29 labor, department of labor employee or any private or public employer or
30 employee with information of value to the council appear before the
31 council and testify to matters within the council's purview. At least once
32 per year, the council shall allow members of the public to appear before
33 the council to testify on any such matters.

34 (2) Not later than ~~90~~ days after the council's first meeting, the council
35 shall issue an initial report that, at a minimum, describes the state of the
36 process by which an individual files a claim for and receives benefits
37 under the employment security law at the time the report is issued and
38 planned improvements to the process. The council may address other
39 matters within the council's purview in the report.

40 (3) The secretary of labor shall post all testimony and other relevant
41 materials discussed, presented to or produced for the council on a publicly
42 accessible website maintained by the secretary.

43 (k) The secretary of labor shall notify the chairperson of the council

1 of any unauthorized third-party access to or acquisition of records
2 maintained by the secretary that are necessary for the administration of the
3 employment security law. The secretary shall provide the notice not more
4 than five days after the secretary discovers or is notified of the
5 unauthorized access or acquisition.

6 (l) The secretary of labor shall notify the members of the council of
7 any substantial disruption in the process by which applications for
8 determination of benefit rights and claims for benefits are filed with the
9 secretary. The council shall, in cooperation with the secretary, adopt and
10 periodically review a definition of substantial disruption for purposes of
11 this subsection.

12 (m) (1) The secretary of labor shall, with the assistance of the
13 council:

14 (A) Develop a written strategic staffing plan to be implemented
15 whenever there is a substantial increase or a substantial decrease in the
16 number of inquiries or claims for benefits and review the plan in
17 accordance with the provisions of subsection (k);

18 (B) create, in a single place on the website maintained by the
19 secretary, a list of all points of contact by which an applicant for or a
20 recipient of unemployment compensation benefits or an employer may
21 submit inquiries related to the employment security law; and

22 (C) adopt rules and regulations creating a uniform process through
23 which an applicant for or a recipient of benefits under the employment
24 security law or an employer may submit a complaint related to the service
25 the applicant, recipient or employer received.

26 (2) In the written strategic staffing plan required under paragraph (1)
27 (A), the secretary shall include an explanation of whether and in what
28 manner the secretary will utilize:

29 (A) Department employees who do not ordinarily perform services
30 related to unemployment compensation;

31 (B) employees employed by other state agencies; and

32 (C) employees provided by private entities.

33 (n) For purposes of subsection (j)(1)(A), the secretary of labor shall
34 develop the initial written strategic staffing plan ~~not later than six months~~
35 ~~after the first meeting of the council~~ and provide such plan to the council,
36 the president of the senate, the speaker of the house of representatives and
37 the governor. The secretary shall review the plan at least once per year. If,
38 after reviewing the plan, the secretary determines that the plan should be
39 revised, the secretary shall revise the plan. After each review of the plan as
40 provided under this subsection, the secretary shall provide the most recent
41 version of the plan to the council, the president of the senate, the speaker
42 of the house of representatives and the governor. The secretary shall post
43 the most recent version of the plan on a publicly accessible website

(m)

1 maintained by the secretary.

2 (o) The council may suggest rules and regulations for adoption by the
3 secretary as necessary to implement the provisions of this section.

4 (p) This section shall be a part of and supplemental to the
5 employment security law.

6 New Sec. 2. (a) It is the intent of the legislature that, in order to
7 accomplish the mission of collecting state employment security taxes,
8 processing unemployment insurance benefit claims and paying benefits,
9 the department of labor's information technology system shall be
10 continually developed, customized, enhanced and upgraded. The purpose
11 of this section is to ensure the state's unemployment insurance program is
12 utilizing current technology and features to protect the sensitive data
13 required in the unemployment insurance benefit and tax systems relating
14 to program integrity, system efficiency and customer service experience.

15 (b) The legislature finds that, as a result of the vulnerabilities exposed
16 in the legacy unemployment insurance system by the COVID-19 pandemic
17 unemployment insurance crisis, a new system shall be fully designed,
18 implemented and administered by the department of labor not later than
19 December 31, 2022.

The unemployment compensation modernization and improvement council established by section 1, and amendments thereto, may extend this deadline.

20 (c) The information technology system, technology and platform
21 shall include, but not be limited to, ~~the following~~ components, as defined
22 by the unemployment compensation modernization and improvement
23 council established by section 1, and amendments thereto, in consultation
24 with the secretary:

any

as specified and

- 25 ~~(1) Component-centric architecture;~~
- 26 ~~(2) configurability;~~
- 27 ~~(3) results-driven customer empowerment;~~
- 28 ~~(4) extensibility;~~
- 29 ~~(5) reporting;~~
- 30 ~~(6) adaptable and scalable platform;~~
- 31 ~~(7) enterprise service bus;~~
- 32 ~~(8) version control;~~
- 33 ~~(9) change control;~~
- 34 ~~(10) multi-speed information technology;~~
- 35 ~~(11) data migration or data architecture; and~~
- 36 ~~(12) legacy integration.~~

any

specified and

37 (d) The new system shall include, but not be limited to, ~~the following~~
38 features and benefits, as defined by the unemployment compensation
39 modernization and improvement council established by section 1, and
40 amendments thereto, in consultation with the secretary:

- 41 ~~(1) Benefit claims and payment management, including:~~
- 42 ~~(A) Claims management;~~
- 43 ~~(B) eligibility and payment processes;~~

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- 1 ~~(C) monetary and non-monetary determinations;~~
- 2 ~~(D) overpayment and collections management;~~
- 3 ~~(E) fraud prevention; and~~
- 4 ~~(F) accounting and auditing;~~
- 5 ~~(2) integrated tax management functionality, including:~~
- 6 ~~(A) Account registration;~~
- 7 ~~(B) tax and wage reports;~~
- 8 ~~(C) adjustments and payments;~~
- 9 ~~(D) delinquencies and collections; and~~
- 10 ~~(E) tax audit assignments; and~~
- 11 ~~(3) tax performance systems, including:~~
- 12 ~~(A) Comprehensive appeals filing and tracking;~~
- 13 ~~(B) appeal filing and management;~~
- 14 ~~(C) hearings and decisions;~~
- 15 ~~(D) correspondence and notices;~~
- 16 ~~(E) integrated workflow;~~
- 17 ~~(F) self-service features; {and}~~
- 18 ~~(G) federal reporting; and~~
- 19 ~~(H){(4)} automated work opportunity tax credit eligibility~~
- 20 ~~determination.~~

21 (e) The secretary shall implement and utilize all program integrity
 22 elements ~~and guidance issued by the United States department of labor and~~
 23 ~~the national association of state workforce agencies, including the integrity~~
 24 ~~data hub, within 60 days of the issuance of such guidance. The secretary~~
 25 ~~shall implement and utilize the following specific program integrity~~
 26 ~~elements{, including, but not limited to}:~~

- 27 (1) Social security administration cross-matching for the purpose of
- 28 validating social security numbers supplied by a claimant;
- 29 (2) checking of new hire records against the national directorate of
- 30 new hires to verify eligibility;
- 31 (3) verification of immigration status or citizenship and confirmation
- 32 of benefit applicant information through the systematic alien verification
- 33 for entitlement program;
- 34 (4) comparison of applicant information to local, state and federal
- 35 prison databases through incarceration cross-matches;
- 36 (5) detection of duplicate claims by applicants filed in other states or
- 37 other unemployment insurance programs through utilization of the
- 38 interstate connection network, interstate benefits cross-match, the state
- 39 identification inquiry state claims and overpayment file and the interstate
- 40 benefits 8606 application for overpayment recoveries for Kansas claims
- 41 filed from a state other than Kansas;
- 42 (6) identification of internet protocol addresses linked to multiple
- 43 claims or to claims filed outside of the United States; and

, as specified and defined by the unemployment compensation modernization and improvement council established by section 1, and amendments thereto, in consultation with the secretary

1 date of this act; and

2 (2) for the fiscal year beginning on July 1, 2021, and each fiscal year
3 thereafter, the secretary shall post the trust fund computations and data for
4 the fiscal year to the website within 120 days of such fiscal year's closing
5 date.

6 (b) The computations and data to be posted shall include:

7 (1) Distributions of taxable wages by experience factor for each state
8 fiscal year including the following information:

9 (A) The rate group;

10 (B) the reserve ratio lower limit;

11 (C) the number of accounts;

12 (D) the taxable wages by fiscal year;

13 (E) a summary of active positive eligible accounts with the number of
14 accounts and fiscal year taxable wages;

15 (F) a summary of active ineligible accounts with the number of
16 accounts and fiscal year taxable wages;

17 (G) a summary of active negative accounts with the number of
18 accounts and fiscal year taxable wages; and

19 (H) a summary of terminated and inactive accounts with the number
20 of accounts and fiscal year taxable wages; and

21 (2) an average high cost benefit rate summary, including:

22 (A) The average high cost benefit rate currently in effect; and

23 (B) the benefit cost rate for the fiscal years used to calculate the
24 average high benefit cost rate.

25 (c) This section shall be a part of and supplemental to the
26 employment security law.

27 ~~New Sec. 5. (a) (1) The secretary of labor and the secretary of
28 commerce shall jointly establish and implement the my reemployment
29 plan as provided in this section. For purposes of this section, "my
30 reemployment plan" means a program jointly established and implemented
31 by the Kansas department of labor and the Kansas department of
32 commerce that provides enhanced reemployment services to Kansans
33 receiving unemployment insurance benefits.~~

34 ~~(2) Not later than the fourth week of benefits provided to an
35 unemployment insurance claimant, the secretary of labor shall request the
36 claimant's resume or work history, a skills list and a job search plan. The
37 secretary shall offer and provide, when requested, assistance to the
38 claimant in developing a resume or work history, a skills list and a job
39 search plan through collaboration with the Kansasworks workforce
40 system.~~

41 ~~(3) The secretary of labor shall share labor market information and
42 current available job positions with unemployment insurance claimants.
43 The secretary of labor may collaborate with the secretary of commerce and~~

See amended New Sec. 5,
Attachment B.

1 ~~Kansasworks or other state or federal agencies with job availability~~
2 ~~information in obtaining or sharing such information. The secretary shall~~
3 ~~match open job positions with claimants based on skills and work history~~
4 ~~and job location that is a reasonable commute from the claimant's~~
5 ~~residence and communicate the match information to the claimant and to~~
6 ~~the employer. The secretary of labor shall also consider whether the~~
7 ~~claimant or a Kansas employer would benefit from the claimant's~~
8 ~~participation in a work skills training or retraining program as provided by~~
9 ~~subsection (e) and, if so, provide such information to the employer, if~~
10 ~~applicable, the claimant and the secretary of commerce.~~

11 ~~(4) The secretary shall facilitate and monitor the claimant and~~
12 ~~employer interview process. The secretary shall monitor the results of job~~
13 ~~matches, including information regarding any claimant who did not attend~~
14 ~~an interview or did not accept a position that was a reasonable match for~~
15 ~~the person's work history and skills and was within a reasonable commute~~
16 ~~from the claimant's residence. The secretary of labor shall contact a~~
17 ~~claimant who did not attend an interview or did not accept a position and~~
18 ~~shall consider whether the claimant has failed to meet work search~~
19 ~~requirements under Kansas law and if benefits should continue to the~~
20 ~~claimant.~~

21 ~~(b) The secretary of labor and the secretary of commerce shall jointly~~
22 ~~implement a work skills training or retraining program for claimants in~~
23 ~~collaboration with the Kansasworks workforce system. The program shall~~
24 ~~be developed in collaboration with Kansas employers and other state or~~
25 ~~federal agencies or organizations as appropriate. The secretary of labor and~~
26 ~~the secretary of commerce shall seek to obtain or utilize any available~~
27 ~~federal funds for such program, and to the extent feasible, the secretary of~~
28 ~~commerce may make current work skills training and retraining programs~~
29 ~~available to claimants. The secretary of labor may allow claimants to~~
30 ~~participate in a work skills training or retraining program offered by the~~
31 ~~secretary of labor, the secretary of commerce or by another state or federal~~
32 ~~agency in lieu of requiring the claimant to meet job search requirements of~~
33 ~~the employment security law and the requirements of the my~~
34 ~~reemployment plan until the number of allowed benefit weeks has expired.~~
35 ~~A claimant shall participate in such a program for not less than 25 hours~~
36 ~~per week. The secretary of labor shall monitor claimants who are~~
37 ~~participating in a work skills training or retraining program to ensure~~
38 ~~attendance and progress.~~

39 ~~(c) Claimants who participate in the my reemployment plan or the~~
40 ~~work skills training or retraining program, as provided by subsection (b),~~
41 ~~shall meet attendance or progress requirements established by the secretary~~
42 ~~to continue eligibility for unemployment insurance benefits. Claimants~~
43 ~~who fail to participate in the my reemployment plan or the work skills~~

~~1 training or retraining program after having been required to do so by the
2 secretary shall be disqualified from receiving unemployment benefits until
3 they demonstrate compliance to the secretary. The secretary may continue
4 benefits or reinstate a claimant's eligibility for benefits upon a showing of
5 good cause by the claimant for the failure to meet attendance or progress
6 requirements or the failure to participate in the my reemployment plan or
7 the work skills training or retraining program.~~

~~8 (d) The secretary of labor shall provide an annual status update and
9 progress report regarding the requirements of this section to the house
10 committee on commerce, labor and economic development and the senate
11 committee on commerce during the first month of the 2022 regular
12 legislative session and during the first month of each regular legislative
13 session thereafter.~~

~~14 (e) This section shall be a part of and supplemental to the
15 employment security law.~~

16 New Sec. 6. Notwithstanding the provisions of chapter 1 of the 2020
17 Special Session Laws of Kansas, any other statute or any other provision
18 of this act, for the fiscal years ending June 30, 2021, and June 30, 2022, on
19 or before July 15, 2021, the director of the budget shall determine the
20 amount of moneys received by the state that are identified as moneys from
21 the federal government for aid to the state of Kansas for coronavirus relief
22 as appropriated in the following acts that are eligible to be used for
23 employment security, may be expended at the discretion of the state and
24 are unencumbered: (1) The federal CARES act, public law 116-136, the
25 federal coronavirus preparedness and response supplemental appropriation
26 act, 2020, public law 116-123, the federal families first coronavirus
27 response act, public law 116-127, and the federal paycheck protection
28 program and health care enhancement act, public law 116-139; (2) the
29 federal consolidated appropriations act, 2021, public law 116-260; and (3)
30 any other federal law that appropriates moneys to the state for aid for
31 coronavirus relief. Of such identified moneys, the director of the budget
32 shall determine in the aggregate an amount equal to \$450,000,000
33 available in special revenue funds. **{If such identified moneys in the
34 aggregate are less than \$450,000,000, the director of the budget shall
35 determine the maximum amount available.}** The director of the budget
36 shall certify the amount so determined from each fund to the director of
37 accounts and reports and, at the same time as such certification is
38 transmitted to the director of accounts and reports, shall transmit a copy of
39 such certification to the director of legislative research. Upon receipt of
40 each such certification, or as soon thereafter as moneys are available, the
41 director of accounts and reports shall transfer an aggregate amount equal
42 to **{such certification and in the aggregate, an amount equal to}**
43 ~~\$450,000,000~~ **{if available}** from such funds to the employment security

, in compliance with the office of management and budget's uniform administrative requirements, cost principles, and audit requirements for federal awards,

; (3) the American rescue plan act of 2021, public law 117-2;

(4)

\$250,000,000

immediately

1 fund (296-00-7056-7200) of the department of labor.

2 New Sec. 7. (a) On or before January 31 of each calendar year, the
3 secretary of labor shall transmit to the standing committee on commerce,
4 labor and economic development of the house of representatives or any
5 successor committee, a report, based on information received or developed
6 by the department of labor, concerning the employment security trust fund,
7 unemployment benefit claims and employer contributions to the
8 employment security trust fund. Such report shall contain the following
9 information:

10 (1) The amount of claims for the 12-month period ending on June 30
11 of the previous calendar year;

12 (2) The actual and projected amount of claims for the 12-month
13 period beginning on July 1 of the previous calendar year;

14 (3) the amount of employer contributions for the 12-month period
15 ending on June 30 of the previous calendar year and current employer
16 contribution rates;

17 (4) The actual and projected amount of employer contributions for the
18 12-month period beginning on July 1 of the previous calendar year and
19 ending on June 30 of the current calendar year and projected employer
20 contribution rates for the next succeeding calendar year.

21 (5) the balance of the employment security trust fund on June 30 of
22 the previous calendar year and the current balance of the fund; and

23 (6) the projected balance of the employment security trust fund on
24 June 30 of the current calendar year and on January 1 of the next
25 succeeding calendar year.

26 (b) In arriving at the amount of employer contributions to the
27 employment security trust fund pursuant to subsection (a)(3), and the
28 projected amount of employer contributions pursuant to subsection (a)(4),
29 contributions paid or projected to be paid on or before July 31 following
30 the respective 12-month period ending date of June 30 shall be considered.

31 (c) The secretary may include in the report any recommendations of
32 the secretary regarding changes in contribution rates or the contribution
33 rate tables. If the secretary makes recommendations, the secretary shall
34 include projections of changes to employer contribution rates and to the
35 balance of the employment security trust fund if the secretary's
36 recommendations were adopted by the legislature.

37 (d) The provisions of this section shall not be in effect on and after
38 February 1, 2024.

39 (e) This section shall be a part of and supplemental to the
40 employment security law.

41 **{Sec. 8. K.S.A. 2020 Supp. 44-706 is hereby amended to read as**
42 **follows: 44-706. The secretary shall examine whether an individual**
43 **has separated from employment for each week claimed. The secretary**

Of such identified moneys, the director of the budget shall further determine in the aggregate an additional amount equal to \$200,000,000, to be held in reserve in a fund or funds identified jointly by the director of the budget and the director of accounts and reports. If such identified moneys in the aggregate are less than \$200,000,000, the director of the budget shall determine the maximum additional amount available. The director of the budget shall certify the amount so determined from each fund to the director of accounts and reports and, at the same time as such certification is transmitted to the director of accounts and reports, shall transmit a copy of such certification to the director of legislative research and to the post auditor. Upon completion of the 2020-2021 audit of the department of labor in accordance with K.S.A. 46-1106, and amendments thereto, the post auditor shall report immediately in writing to the division of the budget the amount of funds in benefits paid improperly as identified by such 2020-2021 audit. Upon receipt of such report, the director of the budget shall certify the amount identified by the post auditor and, at the same time as such certification is transmitted to the director of accounts and reports, shall transmit a copy of such certification to the director of legislative research and to the post auditor. Upon receipt of such certification, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer an aggregate amount equal to such certification from such reserve fund or funds to the employment security fund of the department of labor for purposes of funding the employment security fund. Any moneys remaining of those amounts being held in reserve for this purpose shall be allocated to the department of labor in accordance with appropriation acts.

1 individual would be required to join or to resign from or refrain from
2 joining any labor organization; and (4) if the individual left
3 employment as a result of domestic violence, and the position offered
4 does not reasonably accommodate the individual's physical,
5 psychological, safety, or legal needs relating to such domestic violence.

6 (d) For any week with respect to which the secretary of labor, or a
7 person or persons designated by the secretary, finds that the
8 individual's unemployment is due to a stoppage of work which exists
9 because of a labor dispute or there would have been a work stoppage
10 had normal operations not been maintained with other personnel
11 previously and currently employed by the same employer at the
12 factory, establishment or other premises at which the individual is or
13 was last employed, except that this subsection (d) shall not apply if it is
14 shown to the satisfaction of the secretary of labor, or a person or
15 persons designated by the secretary, that: (1) The individual is not
16 participating in or financing or directly interested in the labor dispute
17 which caused the stoppage of work; and (2) the individual does not
18 belong to a grade or class of workers of which, immediately before the
19 commencement of the stoppage, there were members employed at the
20 premises at which the stoppage occurs any of whom are participating
21 in or financing or directly interested in the dispute. If in any case
22 separate branches of work which are commonly conducted as separate
23 businesses in separate premises are conducted in separate
24 departments of the same premises, each such department shall, for the
25 purpose of this subsection be deemed to be a separate factory,
26 establishment or other premises. For the purposes of this subsection,
27 failure or refusal to cross a picket line or refusal for any reason during
28 the continuance of such labor dispute to accept the individual's
29 available and customary work at the factory, establishment or other
30 premises where the individual is or was last employed shall be
31 considered as participation and interest in the labor dispute.

32 (e) For any week with respect to which or a part of which the
33 individual has received or is seeking unemployment benefits under the
34 unemployment compensation law of any other state or of the United
35 States, except that if the appropriate agency of such other state or the
36 United States finally determines that the individual is not entitled to
37 such unemployment benefits, this disqualification shall not apply.

38 (f) For any week with respect to which the individual is entitled to
39 receive any unemployment allowance or compensation granted by the
40 United States under an act of congress to ex-service men and women
41 in recognition of former service with the military or naval services of
42 the United States.

43 ~~(g) For the period of five two years for the first occurrence or the~~

1 ~~lifetime of the individual for a second occurrence beginning with the first~~
 2 ~~day following the last week of unemployment for which the individual~~
 3 ~~received benefits, or for five two years for the first occurrence or the~~
 4 ~~lifetime of the individual for a second occurrence from the date the act~~
 5 ~~was committed, whichever is the later, if the individual, or another in~~
 6 such individual's behalf with the knowledge of the individual, has
 7 knowingly made a false statement or representation, or has knowingly
 8 failed to disclose a material fact to obtain or increase benefits under
 9 this act or any other unemployment compensation law administered
 10 by the secretary of labor. In addition to the penalties set forth in
 11 K.S.A. 44-719, and amendments thereto, an individual who has
 12 knowingly made a false statement or representation or who has
 13 knowingly failed to disclose a material fact to obtain or increase
 14 benefits under this act or any other unemployment compensation law
 15 administered by the secretary of labor shall be liable for a penalty in
 16 the amount equal to 25% of the amount of benefits unlawfully
 17 received. Notwithstanding any other provision of law, such penalty
 18 shall be deposited into the employment security trust fund.

19 (h) For any week with respect to which the individual is receiving
 20 compensation for temporary total disability or permanent total
 21 disability under the workmen's compensation law of any state or
 22 under a similar law of the United States.

23 (i) For any week of unemployment on the basis of service in an
 24 instructional, research or principal administrative capacity for an
 25 educational institution as defined in K.S.A. 44-703(v), and
 26 amendments thereto, if such week begins during the period between
 27 two successive academic years or terms or, when an agreement
 28 provides instead for a similar period between two regular but not
 29 successive terms during such period or during a period of paid
 30 sabbatical leave provided for in the individual's contract, if the
 31 individual performs such services in the first of such academic years
 32 or terms and there is a contract or a reasonable assurance that such
 33 individual will perform services in any such capacity for any
 34 educational institution in the second of such academic years or terms.

35 (j) For any week of unemployment on the basis of service in any
 36 capacity other than service in an instructional, research, or
 37 administrative capacity in an educational institution, as defined in
 38 K.S.A. 44-703(v), and amendments thereto, if such week begins during
 39 the period between two successive academic years or terms if the
 40 individual performs such services in the first of such academic years
 41 or terms and there is a reasonable assurance that the individual will
 42 perform such services in the second of such academic years or terms,
 43 except that if benefits are denied to the individual under this

, unless the individual has repaid the full amount of the overpayment as determined by the secretary or the secretary's designee, including, but not limited to, the total amount of money erroneously paid as benefits or unlawfully obtained, interest, penalties, and any other costs or fees provided by law. If the individual has made such repayment, the individual shall be disqualified for period of one year for the first occurrence or five years for any subsequent occurrence, beginning with the first day following the date the department of labor confirmed the individual has successfully repaid the full amount of the overpayment.

1 a month, then the amount deemed to be received with respect to any week
2 during such month shall be computed by multiplying such monthly
3 amount by 12 and dividing the product by 52. If there is no designation of
4 the period with respect to which payments to an individual are made under
5 this section, then an amount equal to such individual's normal weekly
6 wage shall be attributed to and deemed paid with respect to the first and
7 each succeeding week following payment of the separation pay to the
8 individual until such amount so paid is exhausted.

9 (2) If benefits for any week, when reduced as provided in this
10 subsection, result in an amount that is not a multiple of \$1, such benefits
11 shall be rounded to the next lower multiple of \$1.

12 (3) Notwithstanding the reemployment provisions of K.S.A. 44-
13 705(e), and amendments thereto, any individual whose benefit amount is
14 completely reduced under this subsection for 52 or more weeks shall, upon
15 exhaustion of the separation pay, be entitled to a new benefit year based
16 upon entitlement from the base period of the claim that was reduced.

17 (j) Except as provided in subsection (k), for weeks commencing on
18 and after January 1, 2014, ~~and ending before April 1, 2021,~~ if at the
19 beginning of the benefit year, the three-month seasonally adjusted average
20 unemployment rate for the state of Kansas is: (1) Less than 4.5%, a
21 claimant shall be eligible for a maximum of 16 weeks of benefits; (2) at
22 least 4.5% but less than 6%, a claimant shall be eligible for a maximum of
23 20 weeks of benefits; or (3) at least 6%, a claimant shall be eligible for a
24 maximum of 26 weeks of benefits.

September 5, 2021,

25 (k) On and after the effective date of this act, a claimant shall be
26 eligible for a maximum of 26 weeks of benefits. A claimant who filed a
27 new claim on or after January 1, 2020, and before the effective date of this
28 act shall be eligible for a maximum of 26 weeks of benefits including the
29 number of weeks of benefits received after January 1, 2020, and before the
30 effective date of this act. This subsection shall not apply to initial claims
31 effective on and after ~~April 1, 2021.~~

September 5, 2021

32 (l) ~~For weeks commencing on and after April 1, 2021,~~ if at the
33 beginning of the benefit year, the three-month seasonally adjusted average
34 unemployment rate for the state of Kansas is: (1) Less than 5%, a claimant
35 shall be eligible for a maximum of 16 weeks of benefits; (2) at least 5%
36 but less than 6%, a claimant shall be eligible for a maximum of 20 weeks
37 of benefits; or (3) at least 6%, a claimant shall be eligible for a maximum
38 of 26 weeks of benefits.

September 5, 2021,

39 (m) Upon the secretary of labor's receipt of notification that the
40 claimant has become employed, the secretary shall notify the secretary of
41 the department for children and families in order that the secretary for
42 children and families may determine the claimant's eligibility for state or
43 federal benefits provided or facilitated by the department for children and

1 previously uncovered services. For the purposes of this subsection (c)(2)
2 (G), the term "previously uncovered services" means services that were
3 not covered employment, at any time during the one-year period ending
4 December 31, 1975, except to the extent that assistance under title II of the
5 federal emergency jobs and unemployment assistance act of 1974 was paid
6 on the basis of such services, and that:

7 (i) Are agricultural labor as defined in K.S.A. 44-703(w), and
8 amendments thereto, or domestic service as defined in K.S.A. 44-703(aa),
9 and amendments thereto;

10 (ii) are services performed by an employee of this state or a political
11 subdivision thereof, as provided in K.S.A. 44-703(i)(3)(E), and
12 amendments thereto; or

13 (iii) are services performed by an employee of a nonprofit educational
14 institution that is not an institution of higher education.

15 (H) No contributing employer or rated governmental employer's
16 account shall be charged with respect to their pro rata share of benefit
17 charges if such charges are of \$100 or less.

18 (I) *Contributing employers, rated governmental employers and*
19 *reimbursing employers shall be held harmless for and shall not be*
20 *required to reimburse the state for claims or benefits paid that have been*
21 *identified as fraudulent or as an improper payment, as defined in K.S.A.*
22 *2020 Supp. 44-710b(e)(2), and amendments thereto, by the contributing*
23 *employer, rated governmental employer or reimbursing employer and*
24 *reported to the secretary, unless the secretary determines the claims are*
25 *not fraudulent or improper as provided by K.S.A. 44-710b(b)(2)(A), and*
26 *amendments thereto. The time limitation for disputing a claim or an*
27 *appeal of a claim as provided by this section, or by any other provision of*
28 *the employment security law, shall not apply to identifications of fraud*
29 *reported to the secretary for claims or benefits paid during the period*
30 *beginning on March 15, 2020, through December 31, 2022. Contributing*
31 *employers, rated governmental employers and reimbursing employers*
32 *shall be refunded or credited, in the discretion of the employer, as*
33 *provided by K.S.A. 44-710b(b), and amendments thereto, for any claims or*
34 *benefits paid that have been reported as fraudulent.*

reported by the employer to the secretary and determined by
the secretary

35 (3) An employer's account shall not be relieved of charges relating to
36 a payment that was made erroneously if the secretary determines that:

37 (A) The erroneous payment was made because the employer, or the
38 agent of the employer, was at fault for failing to respond timely or
39 adequately to a written request from the secretary for information relating
40 to the claim for unemployment compensation; and

41 (B) the employer or agent has established a pattern of failing to
42 respond timely or adequately to requests for information.

43 (C) For purposes of this paragraph:

Fund Control Table B

For Rate Year 2022 and Ensuing Calendar Years

KS SUTA Lower Upper Solvency/Credit Solvency/Credit

Tax Rate AHCM AHCM Adjustment to Adjustment as a Adjustment as

Schedules Threshold Threshold Maximum Rate Group Total % to Standard Rate Multiplier to Employer's Standard, Earned Standard,

Earned

				Rate Group	Rate Group
1-1,000.00000	0.00001		2.00%	0.05263%	26.32%
2	0.00000	0.24999	1.80%	0.04737%	23.68%
Solvency3	0.25000	0.44999	1.60%	0.04211%	21.05%
Schedules	4	0.45000	0.59999	1.40%	0.03684%
					18.42%
(1-6)	5	0.60000	0.69999	1.20%	0.03158%
	6	0.70000	0.74999	1.00%	0.02632%
					15.79%
					13.16%
Standard					
Schedule7	0.75000	1.24999	0.00%	0.00000%	0.00%
(7)					
	8	1.25000	1.29999	-1.00%	-0.02632%
					-13.16%
Credit	9	1.30000	1.39999	-1.20%	-0.03158%
					-15.79%
Schedules	10	1.40000	1.54999	-1.40%	-0.03684%
					-18.42%
(8-13)	11	1.55000	1.74999	-1.60%	-0.04211%
					-21.05%
	12	1.75000	1.99999	-1.80%	-0.04737%
					-23.68%
	13	2.00000	1,000.00000	-2.00%	-0.05263%
					-26.32%

(ii) (a) For rate year 2016 and ensuing rate years, Eligible employers shall be classified by rate group according to the standard rate schedule - standard rate schedule 7 in this section, subject to any adjustment pursuant to the effective rate schedule for that rate year. Except as provided in subclause (b), for rate years 2016 through 2021, the rate pursuant to the standard rate schedule as adjusted by fund control table A shall apply. Except as provided in subclause (b), for rate year 2022 and ensuing calendar years, the rate pursuant to standard rate schedule 7, solvency schedules 1 through 6 or credit schedules 8 through 13 shall apply as provided by fund control table B.

(b) In the event the full appropriation is not made as provided in section 6, and amendments thereto, to the employment security fund on or before July 15, 2021, all contributing employers shall pay the rate as set forth in standard schedule S - standard rate schedule 7 for the 2022 calendar year

transfer

and 2023

s

1 review and redetermination, setting forth the reasons therefor. If the
 2 secretary of labor grants such review, the employer shall be promptly
 3 notified thereof and shall be granted an opportunity for a fair hearing, but
 4 no employer shall have standing, in any proceeding involving the
 5 employer's rate of contributions or benefit liability, to contest the
 6 chargeability to the employer's account of any benefits paid in accordance
 7 with a determination, redetermination or decision pursuant to ~~subsection~~
 8 ~~(e)~~ of K.S.A. 44-710(c), and amendments thereto, except upon the ground
 9 that the services on the basis of which such benefits were found to be
 10 chargeable did not constitute services performed in employment for the
 11 employer and only in the event that the employer was not a party to such
 12 determination, redetermination or decision or to any other proceedings
 13 under this act in which the character of such services was determined. Any
 14 such hearing conducted pursuant to this section shall be heard in the
 15 county where the contributing employer maintains its principle place of
 16 business. The hearing officer shall render a decision concerning all matters
 17 at issue in the hearing within 90 days.

18 (b) (1) ~~The secretary shall, without necessity of a request by or as an~~
 19 ~~improper payment, as defined in K.S.A. 2020 Supp. 44-710b(e)(2), and~~
 20 ~~amendments thereto, employer or a hearing, immediately and fully credit~~
 21 ~~any contributing employer's, governmental rated employer's or~~
 22 ~~reimbursing employer's account for any benefits paid upon a~~
 23 ~~determination by the secretary that such benefits were paid to any person~~
 24 ~~who received such benefits: (A) By fraud; or (B) in error where any~~
 25 ~~conditions imposed by this act for the receipt of benefits were not fulfilled~~
 26 ~~or where the recipient was not qualified to or disqualified from receiving~~
 27 ~~such benefits.~~

28 (2) (A) Contributing employers, rated governmental employers and
 29 reimbursing employers shall be held harmless for and shall not be
 30 required to reimburse the state for any benefits paid that have been
 31 identified by the employer ~~as fraudulent or as an improper payment, as~~
 32 ~~defined by subsection (e)(2), and reported to the secretary unless the~~
 33 ~~secretary determines that such benefits were received properly and not: (i)~~
 34 ~~By fraud; or (ii) in error where any conditions imposed by this act for the~~
 35 ~~receipt of benefits were not fulfilled or where the recipient was not~~
 36 ~~qualified to or disqualified from receiving such benefits. Any such~~
 37 ~~determination by the secretary shall be subject to appeal as provided by~~
 38 ~~the employment security law.~~

39 (B) Reimbursing employers shall be refunded ~~immediately, without~~
 40 ~~necessity of a request or a hearing, for reimbursements made to the state~~
 41 ~~for any claims or benefits paid on or after March 15, 2020, that are or~~
 42 ~~have been reported to the secretary as fraudulent. Amounts refunded shall~~
 43 ~~become due, subject to appeal as provided by the employment security~~

and reported to and determined by the secretary

and determined by the secretary

1 law, upon a determination by the secretary, as provided by subparagraph
2 (A), that the benefits were paid properly and not by fraud or in error.

3 (C) For the time period of March 15, 2020, through December 31,
4 2022, identifications of fraud reported to the secretary pursuant to
5 subparagraphs (A) and (B) shall not be subject to any time limitation for
6 disputing a claim or for appeal pursuant to K.S.A. 44-710, and
7 amendments thereto, or pursuant to any other provision of the employment
8 security law.

9 (3) The secretary shall review all reimbursing employer accounts and
10 shall apply credit for any benefits previously paid by fraud or in error, as
11 provided by paragraph (1), that have been charged against a reimbursing
12 employer's account and have not yet been recovered through normal
13 recovery efforts.

14 (c) *Judicial review.* Any action of the secretary upon an employer's
15 timely request for a review and redetermination of its rate of contributions
16 or benefit liability, in accordance with subsection (a), is subject to review
17 in accordance with the Kansas judicial review act. Any action for such
18 review shall be heard in a summary manner and shall be given precedence
19 over all other civil cases except cases arising under ~~subsection (i) of~~
20 K.S.A. 44-709(i), and amendments thereto, and the workmen's
21 compensation act.

22 ~~(e)~~(d) *Periodic notification of benefits charged.* The secretary of labor
23 may provide by rules and regulations for periodic notification to
24 employers of benefits paid and chargeable to their accounts or of the status
25 of such accounts, and any such notification, in the absence of an
26 application for redetermination filed in such manner and within such
27 period as the secretary of labor may prescribe, shall become conclusive
28 and binding upon the employer for all purposes. Such redeterminations,
29 made after notice and opportunity for hearing, and the secretary's findings
30 of facts in connection therewith may be introduced in any subsequent
31 administrative or judicial proceedings involving the determination of the
32 rate of contributions of any employer for any calendar year and shall be
33 entitled to the same finality as is provided in this subsection with respect to
34 the findings of fact made by the secretary of labor in proceedings to
35 redetermine the contribution rate of an employer. The review or any other
36 proceedings relating thereto as provided for in this section may be heard
37 by any duly authorized employee of the secretary of labor and such action
38 shall have the same effect as if heard by the secretary.

39 (e) (1) *The secretary shall review the information reported by the*
40 *United States department of labor pursuant to the payment integrity*
41 *information act of 2019, public law 116-117, and any other relevant*
42 *information available from the United States department of labor and any*
43 *relevant information held by the department of labor available to the*

1 secretary regarding improper payment amounts for the state of Kansas for
2 the period beginning on March 15, 2020, through December 31, 2022.

3 ~~(2) If the full appropriation pursuant to section 6, and amendments~~
4 ~~thereto, is not made, the secretary shall determine the amount of such~~
5 ~~improper payments within 60 days of any such information becoming~~
6 ~~available for any portion of such period and shall immediately certify such~~
7 ~~amount for such time period to the director of accounts and reports. The~~
8 ~~secretary shall certify any additional amount for any such time period~~
9 ~~within 60 days of information supporting an additional amount becoming~~
10 ~~available. At the same time that the secretary certifies the amount to the~~
11 ~~director of accounts and reports, the secretary shall transmit a copy of~~
12 ~~each such certification to the director of the budget and the director of~~
13 ~~legislative research. Upon receipt of each such certification, the director~~
14 ~~of accounts and reports shall transfer an amount equal to the amount~~
15 ~~certified from the state general fund to the employment security fund. If the~~
16 ~~governor determines that it is prudent for the transfer to be from a~~
17 ~~different fund in the state treasury, the governor, with the approval of the~~
18 ~~state finance council acting on this matter, which is hereby characterized~~
19 ~~as a matter of legislative delegation and subject to the guidelines~~
20 ~~prescribed in K.S.A. 75-3711c(c), and amendments thereto, may authorize~~
21 ~~the transfer from such different fund.~~

22 ~~(3) If the secretary recovers any improper payments from any party,~~
23 ~~the improper payment shall be remitted to the state treasurer in~~
24 ~~accordance with the provisions of K.S.A. 75-4215, and amendments~~
25 ~~thereto. Upon receipt of each such remittance, the state treasurer shall~~
26 ~~deposit the entire amount in the state treasury to the credit of the state~~
27 ~~general fund.~~

28 ~~(4) For purposes of this subsection and subsection (f), "improper~~
29 ~~payment amounts" or "improper payments" means any payment that~~
30 ~~should not have been made or that was made in an incorrect amount~~
31 ~~under statutory, contractual, administrative or other legally applicable~~
32 ~~requirements and includes any payment to an ineligible recipient.~~

33 ~~(f) (1) As soon as information, as described by subsection (e)(1),~~
34 ~~regarding the total amount of fraudulent or improper payments for the~~
35 ~~period of March 15, 2020, through December 31, 2022, is available to the~~
36 ~~secretary, but not later than December 31, 2022, the secretary shall~~
37 ~~determine the total amount and whether the amount of fraudulent or~~
38 ~~improper payments for such time period is more or less than the transfer~~
39 ~~made to the employment security fund pursuant to section 6, and~~
40 ~~amendments thereto.~~

41 ~~(2) (A) If the secretary determines that the amount of fraudulent or~~
42 ~~improper payments is more than such transfer, the secretary shall certify~~
43 ~~such additional amount to the director of accounts and reports. At the~~

~~1 same time that the secretary certifies the amount to the director of
2 accounts and reports, the secretary shall transmit a copy of such
3 certification to the director of the budget and the director of legislative
4 research. Upon receipt of such certification, the director of accounts and
5 reports shall transfer an amount equal to ¹/₅ of the amount certified from
6 the state general fund to the employment security fund on or before July
7 15, 2023, July 15, 2024, July 15, 2025, July 15, 2026, and July 15, 2027.~~

~~8 (B) If the governor determines that it is prudent for a transfer made
9 pursuant to paragraph (2)(A) to be made from a different fund in the state
10 treasury, the governor, with the approval of the state finance council
11 acting on this matter, which is hereby characterized as a matter of
12 legislative delegation and subject to the guidelines prescribed in K.S.A.
13 75-3711c(c), and amendments thereto, may authorize the transfer from
14 such other fund.~~

~~15 (3) (A) If the secretary determines that the amount of fraudulent or
16 improper payments is less than such transfer, the secretary shall certify
17 such amount to the director of accounts and reports. At the same time that
18 the secretary certifies the amount to the director of accounts and reports,
19 the secretary shall transmit a copy of such certification to the director of
20 the budget and the director of legislative research. Upon receipt of such
21 certification, the director of accounts and reports shall transfer an amount
22 equal to the amount certified from the employment security fund to the
23 state general fund. Such moneys shall be designated for use for COVID-
24 19-related purposes, as provided by appropriation acts of the legislature.~~

~~25 (B) If the governor determines that it is prudent for a transfer made
26 pursuant to paragraph (3)(A) to be made to a different fund in the state
27 treasury, the governor, with the approval of the state finance council
28 acting on this matter, which is hereby characterized as a matter of
29 legislative delegation and subject to the guidelines prescribed in K.S.A.
30 75-3711c(c), and amendments thereto, may authorize the transfer to such
31 other fund.~~

~~32 (g) Any federal unemployment insurance benefit program established
33 as a result of COVID-19 or any pandemic shall not be continued after the
34 ending date of the federal program through the use of Kansas state
35 unemployment insurance fund contributions made by Kansas employers.~~

~~36 Sec. 45{16}. K.S.A. 2020 Supp. 44-757 is hereby amended to read as
37 follows: 44-757. Shared work unemployment compensation program. (a)
38 As used in this section:~~

~~39 (1) "Affected unit" means a specified department, shift or other unit
40 of two or more employees that is designated by an employer to participate
41 in a shared work plan.~~

~~42 (2) "Fringe benefit" means health insurance, a retirement benefit
43 received under a pension plan, a paid vacation day, a paid holiday, sick~~

and reletter subsections accordingly.

Insert Section re: Attachment A (K.S.A. 44-714) and renumber sections accordingly.

1 work plan.

2 ~~(q)~~(r) No shared work benefit payment shall be made under any
3 shared work plan or this section for any week that commences before April
4 1, 1989.

5 ~~(r)~~(s) This section shall be construed as part of the employment
6 security law.

7 Sec. ~~16~~{17}. K.S.A. 44-758 is hereby amended to read as follows: 44-
8 758. (a) Any employer or any individual, organization, partnership,
9 corporation or other legal entity ~~which~~ that is a lessor employing unit, as
10 defined by ~~subsection (ff)~~ of K.S.A. 44-703(ff), and amendments thereto,
11 shall be liable for contributions on wages paid by the lessor employing
12 unit to individuals performing services for client lessees. ~~For the purposes~~
13 ~~of the employment security law, no client lessee shall lease an individual~~
14 ~~proprietor, partner or corporate officer, who is a shareholder or a member~~
15 ~~of the board of directors of the corporation, from any lessor employing~~
16 ~~unit.~~ Any client lessee shall be jointly and severally liable for any unpaid
17 contributions, interest and penalties due under this law from any lessor
18 employing unit attributable to wages for services performed for the client
19 lessee by employees leased to the client lessee. The lessor employing unit
20 shall keep separate records and submit separate quarterly contributions and
21 wage reports for each client lessee.

22 (b) Any lessor employing unit ~~which~~ that is currently engaged in the
23 business of leasing employees to client lessees shall comply with the
24 provisions of subsection (a) prior to October 1, 1990.

25 (c) The provisions of this section shall not be applicable to private
26 employment agencies ~~which~~ that provide temporary workers to employers
27 on a temporary help basis, provided the private employment agencies are
28 liable as employers for the payment of contributions on wages paid to
29 temporary workers so employed.

30 (d) This section shall be construed as part of the employment security
31 law.

32 Sec. ~~17~~{18}. K.S.A. 44-758 and K.S.A. 2020 Supp. 44-703, 44-704,
33 44-705, ~~{44-706,}~~ 44-709, 44-710, 44-710a, 44-710b and 44-757 are
34 hereby repealed.

, K.S.A. 44-714,

35 Sec. ~~18~~{19}. This act shall take effect and be in force from and after
36 its publication in the Kansas register.

ATTACHMENT A

(K.S.A. 44-714) - new language in blue in subsection (e)

44-714. Administration of act; powers and duties of secretary; employees, agents and contractors; reports and records, confidentiality; disclosure of information; witnesses, oaths and subpoenas; state-federal cooperation; fees for document copies. (a) *Duties and powers of secretary.* It shall be the duty of the secretary to administer this act and the secretary shall have power and authority to adopt, amend or revoke such rules and regulations, to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action as the secretary deems necessary or suitable to that end. Such rules and regulations may be adopted, amended, or revoked by the secretary only after public hearing or opportunity to be heard thereon. The secretary shall determine the organization and methods of procedure in accordance with the provisions of this act, and shall have an official seal which shall be judicially noticed. The secretary shall make and submit reports for the administration of the employment security law in the manner prescribed by K.S.A. 75-3044 to 75-3046, inclusive, and 75-3048, and amendments thereto. Whenever the secretary believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, the secretary shall promptly so inform the governor and the legislature, and make recommendations with respect thereto.

(b) *Publication.* The secretary shall cause to be printed for distribution to the public the text of this act, the secretary's rules and regulations and any other material the secretary deems relevant and suitable and shall furnish the same to any person upon application therefor.

(c) *Personnel.* Subject to other provisions of this act, the secretary is authorized to appoint, fix the compensation, and prescribe the duties and powers of such officers, accountants, deputies, attorneys, experts and other persons as may be necessary in carrying out the provisions of this act. The secretary may delegate to any such person so appointed such power and authority as the secretary deems reasonable and proper for the effective administration of this act, and may in the secretary's discretion bond any person handling moneys or signing checks under the employment security law.

(d) *Employment stabilization.* The secretary, with the advice and aid of the appropriate divisions of the department of labor, shall take all appropriate steps to reduce and prevent unemployment; to encourage and assist in the adoption of practical methods of vocational training, retraining and vocational guidance; to investigate, recommend, advise, and assist in the establishment and operation, by municipalities, counties, school districts and the state, of reserves for public works to be used in time of business depression and unemployment; to promote the reemployment of unemployed workers throughout the state in every other way that may be feasible; and to these ends to carry on and publish the results of investigations and research studies.

(e) *Records and reports.* Each employing unit shall keep true and accurate work records, containing such information as the secretary may prescribe. Such records shall be open to inspection and subject to being copied by the secretary or the secretary's authorized representatives at any reasonable time and shall be preserved for a period of five years from the due date of the contributions or payments in lieu of contributions for the period to which they relate. Only one audit shall be made of any employer's records for any given period of time. Upon request the employing unit shall be furnished a copy of all findings by the secretary or the secretary's authorized representatives, resulting from such audit. A special inquiry or special examination made for a specific and limited purpose shall not be considered to be an audit for the purpose of this subsection. The secretary may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which the secretary deems necessary for the effective administration of this act. Information thus obtained or obtained from any individual pursuant to the administration of this act shall be held confidential, except to the extent necessary for the

proper presentation of a claim by an employer or employee under the employment security law, and shall not be published or be open to public inspection, other than to public officials or the agents or contractors of a public official in the performance of their official duties, in any manner revealing the individual's or employing unit's identity. The secretary may publish or otherwise disclose appeals records and decisions, and precedential determinations on coverage of employers, employment and wages, provided all social security numbers have been removed. Any claimant or employing unit or their representatives at a hearing before an appeal tribunal or the secretary shall be supplied with information from such records to the extent necessary for the proper presentation of the claim. The transcript made at any such benefits hearing shall not be discoverable or admissible in evidence in any other proceeding, hearing or determination of any kind or nature. In the event of any appeal of a benefits matter, the transcript shall be sealed by the hearing officer and shall be available only to any reviewing authority who shall reseal the transcript after making a review of it. In no event shall such transcript be deemed a public record. Nothing in this subsection shall be construed to prohibit disclosure of any information obtained under the employment security law, including hearing transcripts, upon request of either of the parties, for the purpose of administering or adjudicating a claim for benefits under the provisions of any other state program, except that any party receiving such information shall be prohibited from further disclosure and shall be subject to the same duty of confidentiality otherwise imposed by this subsection and shall be subject to the penalties imposed by this subsection for violations of such duty of confidentiality. Nothing in this subsection shall be construed to prohibit disclosure of any information obtained under the employment security law, including hearing transcripts, for use as evidence in a criminal investigation or in open court in a criminal prosecution or at an appeal hearing under the employment security law. Nothing in this subsection shall be construed to prohibit disclosure of any information obtained under the employment security law, including hearing transcripts to an agent or contractor of a public official to whom disclosure is permissible under the employment security law, except that any party receiving such information shall be prohibited from further disclosure, except for use in the performance of such party's official duties, and shall be subject to the same duty of confidentiality otherwise imposed by this subsection and shall be subject to the penalties imposed by this subsection for violations of such duty of confidentiality. Any individual who violates any provisions of this subsection, shall be fined not less than \$20 nor more than \$200 or imprisoned for not longer than 90 days, or both. Original records of the agency and original paid benefit warrants of the state treasurer may be made available to the employment security agency of any other state or the federal government to be used as evidence in prosecution of violations of the employment security law of such state or federal government. Photostatic copies of such records shall be made and where possible shall be substituted for original records introduced in evidence and the originals returned to the agency. [Nothing in this subsection shall be construed to prohibit disclosure otherwise permissible under 20 C.F.R. part 603.5.](#)

(f) *Oaths and witnesses.* In the discharge of the duties imposed by the employment security law, the chairperson of an appeal tribunal, an appeals referee, the secretary or any duly authorized representative of the secretary shall have power to administer oaths and affirmations, take depositions, issue interrogatories, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda and other records deemed necessary as evidence in connection with a disputed claim or the administration of the employment security law.

(g) *Subpoenas, service.* Upon request, service of subpoenas shall be made by the sheriff of a county within that county, by the sheriff's deputy, by any other person who is not a party and is not less than 18 years of age or by some person specially appointed for that purpose by the secretary of labor or the secretary's designee. A person not a party as described above or a person specially appointed by the secretary or the secretary's designee to serve subpoenas may make service any place in the state. The subpoena shall be served as follows:

(1) *Individual*. Service upon an individual, other than a minor or incapacitated person, shall be made: (A) By delivering a copy of the subpoena to the individual personally; (B) by leaving a copy at such individual's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein; (C) by leaving a copy at the business establishment of the employer with an officer or employee of the establishment; (D) by delivering a copy to an agent authorized by appointment or by law to receive service of process, but if the agent is one designated by a statute to receive service, such further notice as the statute requires shall be given; or (E) if service as prescribed above in subparagraphs (A), (B), (C) or (D) cannot be made with due diligence, by leaving a copy of the subpoena at the individual's dwelling house, usual place of abode or usual business establishment, and by mailing a notice by first-class mail to the place that the copy has been left.

(2) *Corporations and partnerships*. Service upon a domestic or foreign corporation or upon a partnership or other unincorporated association, when by law it may be sued as such, shall be made by delivering a copy of the subpoena to an officer, partner or resident managing or general agent thereof, or by leaving the copy at any business office of the employer with the person having charge thereof or by delivering a copy to any other agent authorized by appointment or required by law to receive service of process, if the agent is one authorized by law to receive service and, if the law so requires, by also mailing a copy to the employer.

(3) *Refusal to accept service*. In all cases when the person to be served, or an agent authorized by such person to accept service of petitions and summonses shall refuse to receive copies of the subpoena, the offer of the duly authorized process server to deliver copies thereof and such refusal shall be sufficient service of such subpoena.

(4) *Proof of service*. (A) Every officer to whom a subpoena or other process shall be delivered for service within or without the state, shall make return thereof in writing stating the time, place and manner of service of such writ and shall sign such officer's name to such return.

(B) If service of the subpoena is made by a person appointed by the secretary or the secretary's designee to make service, or any other person described in subsection (g), such person shall make an affidavit as to the time, place and manner of service thereof in a form prescribed by the secretary or the secretary's designee.

(5) *Time for return*. The officer or other person receiving a subpoena shall make a return of service promptly and shall send such return to the secretary or the secretary's designee in any event within 10 days after the service is effected. If the subpoena cannot be served it shall be returned to the secretary or the secretary's designee within 30 days after the date of issue with a statement of the reason for the failure to serve the same.

(h) *Subpoenas, enforcement*. In case of contumacy by or refusal to obey a subpoena issued to any person, any court of this state within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which such person guilty of contumacy or refusal to obey is found, resides or transacts business, upon application by the secretary or the secretary's duly authorized representative, shall have jurisdiction to issue to such person an order requiring such person to appear before the secretary, or the secretary's duly authorized representative, to produce evidence, if so ordered, or to give testimony relating to the matter under investigation or in question. Failure to obey such order of the court may be punished by the court as a contempt thereof. Any person who, without just cause, shall fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda or other records in obedience to

the subpoena of the secretary or the secretary's duly authorized representative shall be punished by a fine of not less than \$200 or by imprisonment of not longer than 60 days, or both, and each day such violation continued shall be deemed to be a separate offense.

(i) *State-federal cooperation.* In the administration of this act, the secretary shall cooperate to the fullest extent consistent with the provisions of this act, with the federal security agency, shall make such reports, in such form and containing such information as the federal security administrator may from time to time require, and shall comply with such provisions as the federal security administrator may from time to time find necessary to assure the correctness and verification of such reports; and shall comply with the regulations prescribed by the federal security agency governing the expenditures of such sums as may be allotted and paid to this state under title III of the social security act for the purpose of assisting in the administration of this act. Upon request therefor the secretary shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits under this act.

(j) *Reciprocal arrangements.* The secretary shall participate in making reciprocal arrangements with appropriate and duly authorized agencies of other states or of the federal government, or both, whereby:

(1) Services performed by an individual for a single employing unit for which services are customarily performed in more than one state shall be deemed to be services performed entirely within any one of the states: (A) In which any part of such individual's service is performed; (B) in which such individual maintains residence; or (C) in which the employing unit maintains a place of business, provided there is in effect as to such services, an election, approved by the agency charged with the administration of such state's unemployment compensation law, pursuant to which all the services performed by such individual for such employing units are deemed to be performed entirely within such state;

(2) service performed by not more than three individuals, on any portion of a day but not necessarily simultaneously, for a single employing unit which customarily operates in more than one state shall be deemed to be service performed entirely within the state in which such employing unit maintains the headquarters of its business; provided that there is in effect, as to such service, an approved election by an employing unit with the affirmative consent of each such individual, pursuant to which service performed by such individual for such employing unit is deemed to be performed entirely within such state;

(3) potential rights to benefits accumulated under the employment compensation laws of one or more states or under one or more such laws of the federal government, or both, may constitute the basis for the payments of benefits through a single appropriate agency under terms which the secretary finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the fund;

(4) wages or services, upon the basis of which an individual may become entitled to benefits under an unemployment compensation law of another state or of the federal government, shall be deemed to be wages for insured work for the purpose of determining such individual's rights to benefits under this act, and wages for insured work, on the basis of which an individual may become entitled to benefits under this act, shall be deemed to be wages or services on the basis of which unemployment compensation under such law of another state or of the federal government is payable, but no such arrangement shall be entered into unless it contains provisions for reimbursements to the fund for such of the benefits paid under this act upon the basis of such wages or services, and provisions for reimbursements from the fund for such of the compensation paid under such other law upon the basis of wages for insured work, as the secretary finds will be fair and reasonable as to all affected interests; and

(5) (A) contributions due under this act with respect to wages for insured work shall be deemed for the purposes of K.S.A. 44-717, and amendments thereto, to have been paid to the fund as of the date payment was made as contributions therefor under another state or federal unemployment compensation law, but no such arrangement shall be entered into unless it contains provisions for such reimbursements to the fund of such contributions and the actual earnings thereon as the secretary finds will be fair and reasonable as to all affected interests;

(B) reimbursements paid from the fund pursuant to subsection (j)(4) shall be deemed to be benefits for the purpose of K.S.A. 44-704 and 44-712, and amendments thereto; the secretary is authorized to make to other state or federal agencies, and to receive from such other state or federal agencies, reimbursements from or to the fund, in accordance with arrangements entered into pursuant to the provisions of this section or any other section of the employment security law;

(C) the administration of this act and of other state and federal unemployment compensation and public employment service laws will be promoted by cooperation between this state and such other states and the appropriate federal agencies in exchanging services and in making available facilities and information; the secretary is therefore authorized to make such investigations, secure and transmit such information, make available such services and facilities and exercise such of the other powers provided herein with respect to the administration of this act as the secretary deems necessary or appropriate to facilitate the administration of any such unemployment compensation or public employment service law and, in like manner, to accept and utilize information, service and facilities made available to this state by the agency charged with the administration of any such other unemployment compensation or public employment service law; and

(D) to the extent permissible under the laws and constitution of the United States, the secretary is authorized to enter into or cooperate in arrangements whereby facilities and services provided under this act and facilities and services provided under the unemployment compensation law of any foreign government may be utilized for the taking of claims and the payment of benefits under the employment security law of this state or under a similar law of such government.

(k) *Records available.* The secretary may furnish the railroad retirement board, at the expense of such board, such copies of the records as the railroad retirement board deems necessary for its purposes.

(l) *Destruction of records, reproduction and disposition.* The secretary may provide for the destruction, reproduction, temporary or permanent retention, and disposition of records, reports and claims in the secretary's possession pursuant to the administration of the employment security law provided that prior to any destruction of such records, reports or claims the secretary shall comply with K.S.A. 75-3501 to 75-3514, inclusive, and amendments thereto.

(m) *Federal cooperation.* The secretary may afford reasonable cooperation with every agency of the United States charged with administration of any unemployment insurance law.

(n) The secretary is hereby authorized to fix, charge and collect fees for copies made of public documents, as defined by K.S.A. 45-217(c), and amendments thereto, by xerographic, thermographic or other photocopying or reproduction process, in order to recover all or part of the actual costs incurred, including any costs incurred in certifying such copies. All moneys received from fees charged for copies of such documents shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the employment

security administration fund. No such fees shall be charged or collected for copies of documents that are made pursuant to a statute which requires such copies to be furnished without expense.

(o) "Performance of official duties" means the administration or enforcement of law or the execution of the official responsibilities of a federal, state or local official, collection of debts owed to the courts or the enforcement of child support on behalf of a state or local official. Administration of law includes research related to the law administered by the public official. "Performance of official duties" does not include solicitation of contributions or expenditures to or on behalf of a candidate for public or political office or a political party.

Attachment B: New Sec. 5
(For insertion at page 10)

New Sec. 5. (a)(1) The secretary of labor and the secretary of commerce shall jointly establish and implement the my reemployment plan as provided in this section. For purposes of this section, "my reemployment plan" means a program jointly established and implemented by the Kansas department of labor and the Kansas department of commerce that provides enhanced reemployment services, including workforce services provided by the department of commerce, to Kansans receiving unemployment insurance benefits. The program shall be available to all claimants except claimants in the shared work program or trade readjustment assistance program or claimants on temporary layoff with a return to work date.

(2) The secretary of labor shall provide the secretary of commerce the names and contact information of claimants that have claimed four continuous weeks of benefits. The secretary of commerce shall request a resume or work history, a skills list and a job search plan from the claimants and shall offer and provide, when requested, assistance to the claimants in developing the documents or plan through collaboration by the secretary with the Kansas works workforce system.

(3) The secretary of labor shall share labor market information and current available job positions with the secretary of commerce. The secretary of labor may collaborate with Kansasworks or other state or federal agencies with job availability information in obtaining or sharing such information.

The secretary of commerce shall match open job positions with claimants based on skills and work history and job location that is a reasonable commute from the claimant's residence and communicate the match information to the claimant and to the employer. The secretary of labor and the secretary of commerce shall consider whether the claimant or a Kansas employer would benefit from the claimant's participation in a work skills training or retraining program as provided by subsection (b) and, if so, provide such information to the employer, if applicable, and the claimant. Claimants who fail to respond within two weeks after contact by Kansasworks or the department of commerce shall be reported by the secretary of commerce to the secretary of labor.

(4) The secretary of commerce shall facilitate and oversee the claimant and employer interview process. The secretary shall monitor the result of job matches, including information regarding any claimant who did not attend an interview or did not accept a position that was a reasonable match for the claimant's work history and skills and was within a reasonable commute from the claimant's residence. The secretary shall contact the claimant and report the claimant to the secretary of labor. The secretary of labor shall consider whether the claimant has failed to meet work search requirements and if the claimant should continue to receive benefits.

(b) The secretary of commerce shall develop and implement a work skills training or retraining program for claimants in collaboration with the Kansasworks workforce system, the secretary of labor, employers and other state or federal agencies or organizations. The secretary of commerce shall seek to obtain or utilize any available federal funds for the program, and to the extent feasible, may make current work

(c) Claimants who participate in the my reemployment plan or the work skills training or retraining program shall meet attendance or progress requirements established by the secretary of commerce to continue eligibility for unemployment insurance benefits. Non-compliant claimants shall be reported by the secretary of commerce to the secretary of labor. The secretary of labor shall disqualify such claimants from further benefits within five business days of receiving the report, unless or until the claimant demonstrates compliance to the secretary of commerce, and shall communicate the disqualification and the reason for the disqualification to the claimant. The secretary of commerce shall report to the secretary of labor when the claimant has reestablished compliance. The secretary of labor may continue benefits or reinstate a claimant's eligibility for benefits upon a showing of good cause by the claimant for the failure to meet attendance or progress requirements or my reemployment plan participation requirements.

(d) The secretary of labor and the secretary of commerce shall provide an annual status update and progress report for the my reemployment plan to the standing committee on commerce, labor and economic development of the house and the standing committee on commerce of the senate during the first month of the 2022 regular legislative session and the first month of each regular legislative session thereafter.

(e) This section shall be a part of and supplemental to the employment security law.