

HOUSE BILL No. 2195

By Committee on K-12 Education Budget

2-1

1 AN ACT concerning employment security; crediting or refunding
2 employer accounts for fraudulent or erroneous payments; transferring
3 moneys from the state general fund to the unemployment insurance
4 trust fund for improper benefit payments; holding employers harmless
5 for such payments; amending K.S.A. 2020 Supp. 44-710 and 44-710b
6 and repealing the existing sections.
7

8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. K.S.A. 2020 Supp. 44-710 is hereby amended to read as
10 follows: 44-710. (a) *Payment.* Contributions shall accrue and become
11 payable by each contributing employer for each calendar year that the
12 contributing employer is subject to the employment security law with
13 respect to wages paid for employment. Such contributions shall become
14 due and be paid by each contributing employer to the secretary for the
15 employment security fund in accordance with such rules and regulations as
16 the secretary may adopt and shall not be deducted, in whole or in part,
17 from the wages of individuals in such employer's employ. In the payment
18 of any contributions, a fractional part of \$.01 shall be disregarded unless it
19 amounts to \$.005 or more, in which case it shall be increased to \$.01.
20 Should contributions for any calendar quarter be less than \$5, no payment
21 shall be required.

22 (b) *Rates and base of contributions.* (1) Except as provided in
23 paragraph (2) ~~of this subsection~~, each contributing employer shall pay
24 contributions on wages paid by the contributing employer during each
25 calendar year with respect to employment as provided in K.S.A. 44-710a,
26 and amendments thereto. Except that, notwithstanding the federal law
27 requiring the secretary of labor to annually recalculate the contribution
28 rate, for calendar years 2010, 2011, 2012, 2013 and 2014, the secretary
29 shall charge each contributing employer in rate groups 1 through 32 the
30 contribution rate in the 2010 original tax rate computation table, with
31 contributing employers in rate groups 33 through 51 being capped at a
32 5.4% contribution rate. For calendar year 2021, unemployment tax rates
33 for eligible employers shall be limited to the standard rate schedule in
34 K.S.A. 44-710a, and amendments thereto. Therefore, no additional
35 solvency adjustment shall be applied.

36 (2) (A) If the congress of the United States either amends or repeals

1 the Wagner-Peyser act, the federal unemployment tax act, the federal
2 social security act, or subtitle C of chapter 23 of the federal internal
3 revenue code of 1986, or any act or acts supplemental to or in lieu thereof,
4 or any part or parts of any such law, or if any such law, or any part or parts
5 thereof, are held invalid with the effect that appropriations of funds by
6 congress and grants thereof to the state of Kansas for the payment of costs
7 of administration of the employment security law are no longer available
8 for such purposes; or (B) if employers in Kansas subject to the payment of
9 tax under the federal unemployment tax act are granted full credit against
10 such tax for contributions or taxes paid to the secretary of labor, then, and
11 in either such case, beginning with the year that the unavailability of
12 federal appropriations and grants for such purpose occurs or that such
13 change in liability for payment of such federal tax occurs and for each year
14 thereafter, the rate of contributions of each contributing employer shall be
15 equal to the total of 0.5% and the rate of contributions as determined for
16 such contributing employer under K.S.A. 44-710a, and amendments
17 thereto. The amount of contributions that each contributing employer
18 becomes liable to pay under this paragraph (2) over the amount of
19 contributions that such contributing employer would be otherwise liable to
20 pay shall be credited to the employment security administration fund to be
21 disbursed and paid out under the same conditions and for the same
22 purposes as other moneys are authorized to be paid from the employment
23 security administration fund, except that, if the secretary determines that as
24 of the first day of January of any year there is an excess in the employment
25 security administration fund over the amount required to be disbursed
26 during such year, an amount equal to such excess as determined by the
27 secretary shall be transferred to the employment security fund.

28 (c) *Charging of benefit payments.* (1) The secretary shall maintain a
29 separate account for each contributing employer, and shall credit the
30 contributing employer's account with all the contributions paid on the
31 contributing employer's own behalf. Nothing in the employment security
32 law shall be construed to grant any employer or individuals in such
33 employer's service prior claims or rights to the amounts paid by such
34 employer into the employment security fund either on such employer's
35 own behalf or on behalf of such individuals. Benefits paid shall be charged
36 against the accounts of each base period employer in the proportion that
37 the base period wages paid to an eligible individual by each such employer
38 bears to the total wages in the base period. Benefits shall be charged to
39 contributing employers' accounts and rated governmental employers'
40 accounts upon the basis of benefits paid during each twelve-month period
41 ending on the computation date.

42 (2) (A) Benefits paid in benefit years established by valid new claims
43 shall not be charged to the account of a contributing employer or rated

1 governmental employer who is a base period employer if the examiner
2 finds that claimant was separated from the claimant's most recent
3 employment with such employer under any of the following conditions: (i)
4 Discharged for misconduct or gross misconduct connected with the
5 individual's work; (ii) leaving work voluntarily without good cause
6 attributable to the claimant's work or the employer; or (iii) discharged from
7 an employer directly impacted by COVID-19 in accordance with the
8 families first coronavirus response act, public law 116-127.

9 (B) Where base period wage credits of a contributing employer or
10 rated governmental employer represent part-time employment and the
11 claimant continues in that part-time employment with that employer
12 during the period for which benefits are paid, then that employer's account
13 shall not be charged with any part of the benefits paid if the employer
14 provides the secretary with information as required by rules and
15 regulations. For the purposes of this subsection (c)(2)(B), "part-time
16 employment" means any employment when an individual works less than
17 full-time because the individual's services are not required for the
18 customary, scheduled full-time hours prevailing at the work place or the
19 individual does not customarily work the regularly scheduled full-time
20 hours due to personal choice or circumstances.

21 (C) No contributing employer or rated governmental employer's
22 account shall be charged with any extended benefits paid in accordance
23 with the employment security law, except for weeks of unemployment
24 beginning after December 31, 1978, all contributing governmental
25 employers and governmental rated employers shall be charged an amount
26 equal to all extended benefits paid.

27 (D) No contributing employer, rated governmental employer or
28 reimbursing employer's account shall be charged for any additional
29 benefits paid during the period July 1, 2003 through June 30, 2004.

30 (E) No contributing employer or rated governmental employer's
31 account will be charged for benefits paid a claimant while pursuing an
32 approved training course as defined in K.S.A. 44-703(s), and amendments
33 thereto.

34 (F) No contributing employer or rated governmental employer's
35 account shall be charged with respect to the benefits paid to any individual
36 whose base period wages include wages for services not covered by the
37 employment security law prior to January 1, 1978, to the extent that the
38 employment security fund is reimbursed for such benefits pursuant to
39 section 121 of public law 94-566 (90 Stat. 2673).

40 (G) With respect to weeks of unemployment beginning after
41 December 31, 1977, wages for insured work shall include wages paid for
42 previously uncovered services. For the purposes of this subsection (c)(2)
43 (G), the term "previously uncovered services" means services that were

1 not covered employment, at any time during the one-year period ending
2 December 31, 1975, except to the extent that assistance under title II of the
3 federal emergency jobs and unemployment assistance act of 1974 was paid
4 on the basis of such services, and that:

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

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

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

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

16 *(I) (i) No contributing employer, rated governmental employer or*
17 *reimbursing employer's account shall be charged for any benefits paid*
18 *beginning on March 15, 2020, through December 31, 2021.*

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

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:

1 (i) "Erroneous payment" means a payment that but for the failure by
2 the employer or the employer's agent with respect to the claim for
3 unemployment compensation, would not have been made; and

4 (ii) "pattern of failure" means repeated documented failure on the part
5 of the employer or the agent of the employer to respond, taking into
6 consideration the number of instances of failure in relation to the total
7 volume of requests. An employer or employer's agent failing to respond as
8 described in (c)(3)(A) shall not be determined to have engaged in a
9 "pattern of failure" if the number of such failures during the year prior to
10 such request is fewer than two, or less than 2%, of such requests,
11 whichever is greater.

12 (D) Determinations of the secretary prohibiting the relief of charges
13 pursuant to this section shall be subject to appeal or protest as other
14 determinations of the agency with respect to the charging of employer
15 accounts.

16 (E) This paragraph shall apply to erroneous payments established on
17 and after the effective date of this act.

18 (4) The examiner shall notify any base period employer whose
19 account will be charged with benefits paid following the filing of a valid
20 new claim and a determination by the examiner based on all information
21 relating to the claim contained in the records of the division of
22 employment security. Such notice shall become final and benefits charged
23 to the base period employer's account in accordance with the claim unless
24 within 10 calendar days from the date the notice was sent, the base period
25 employer requests in writing that the examiner reconsider the
26 determination and furnishes any required information in accordance with
27 the secretary's rules and regulations. In a similar manner, a notice of an
28 additional claim followed by the first payment of benefits with respect to
29 the benefit year, filed by an individual during a benefit year after a period
30 in such year during which such individual was employed, shall be given to
31 any base period employer of the individual who has requested such a
32 notice within 10 calendar days from the date the notice of the valid new
33 claim was sent to such base period employer. For purposes of this
34 subsection (c)(3), if the required information is not submitted or
35 postmarked within a response time limit of 10 days after the base period
36 employer notice was sent, the base period employer shall be deemed to
37 have waived its standing as a party to the proceedings arising from the
38 claim and shall be barred from protesting any subsequent decisions about
39 the claim by the secretary, a referee, the board of review or any court,
40 except that the base period employer's response time limit may be waived
41 or extended by the examiner or upon appeal, if timely response was
42 impossible due to excusable neglect. The examiner shall notify the
43 employer of the reconsidered determination, which shall be subject to

1 appeal or further reconsideration, in accordance with the provisions of
2 K.S.A. 44-709, and amendments thereto.

3 (5) *Time, computation and extension.* In computing the period of time
4 for a base period employer response or appeals under this section from the
5 examiner's or the special examiner's determination or from the referee's
6 decision, the day of the act, event or default from which the designated
7 period of time begins to run shall not be included. The last day of the
8 period shall be included unless it is a Saturday, Sunday or legal holiday, in
9 which event the period runs until the end of the next day that is not a
10 Saturday, Sunday or legal holiday.

11 (d) *Pooled fund.* All contributions and payments in lieu of
12 contributions and benefit cost payments to the employment security fund
13 shall be pooled and available to pay benefits to any individual entitled
14 thereto under the employment security law, regardless of the source of
15 such contributions or payments in lieu of contributions or benefit cost
16 payments.

17 (e) *Election to become reimbursing employer; payment in lieu of*
18 *contributions.* (1) Any governmental entity, Indian tribes or tribal units,
19 (subdivisions, subsidiaries or business enterprises wholly owned by such
20 Indian tribes), for which services are performed as described in K.S.A. 44-
21 703(i)(3)(E), and amendments thereto, or any nonprofit organization or
22 group of nonprofit organizations described in section 501(c)(3) of the
23 federal internal revenue code of 1986 that is exempt from income tax
24 under section 501(a) of such code, that becomes subject to the
25 employment security law may elect to become a reimbursing employer
26 under this subsection (e)(1) and agree to pay the secretary for the
27 employment security fund an amount equal to the amount of regular
28 benefits and $\frac{1}{2}$ of the extended benefits paid that are attributable to service
29 in the employ of such reimbursing employer, except that each reimbursing
30 governmental employer, Indian tribes or tribal units shall pay an amount
31 equal to the amount of regular benefits and extended benefits paid for
32 weeks of unemployment beginning after December 31, 1978, for
33 governmental employers and December 21, 2000, for Indian tribes or
34 tribal units to individuals for weeks of unemployment that begin during the
35 effective period of such election.

36 (A) Any employer identified in this subsection (e)(1) may elect to
37 become a reimbursing employer for a period encompassing not less than
38 four complete calendar years if such employer files with the secretary a
39 written notice of such election within the 30-day period immediately
40 following January 1 of any calendar year or within the 30-day period
41 immediately following the date when a determination of subjectivity to the
42 employment security law is issued, whichever occurs later.

43 (B) Any employer that makes an election to become a reimbursing

1 employer in accordance with subparagraph (A) will continue to be liable
2 for payments in lieu of contributions until such employer files with the
3 secretary a written notice terminating its election not later than 30 days
4 prior to the beginning of the calendar year for which such termination shall
5 first be effective.

6 (C) Any employer identified in this subsection (e)(1) that has
7 remained a contributing employer and has been paying contributions under
8 the employment security law for a period subsequent to January 1, 1972,
9 may change to a reimbursing employer by filing with the secretary not
10 later than 30 days prior to the beginning of any calendar year a written
11 notice of election to become a reimbursing employer. Such election shall
12 not be terminable by the employer for four complete calendar years.

13 (D) The secretary may for good cause extend the period within which
14 a notice of election, or a notice of termination, must be filed and may
15 permit an election to be retroactive but not any earlier than with respect to
16 benefits paid after January 1 of the year such election is received.

17 (E) The secretary, in accordance with such rules and regulations as
18 the secretary may adopt, shall notify each employer identified in
19 subsection (e)(1) of any determination that the secretary may make of its
20 status as an employer and of the effective date of any election that it makes
21 to become a reimbursing employer and of any termination of such
22 election. Such determinations shall be subject to reconsideration, appeal
23 and review in accordance with the provisions of K.S.A. 44-710b, and
24 amendments thereto.

25 (2) *Reimbursement reports and payments.* Payments in lieu of
26 contributions shall be made in accordance with the provisions of
27 subparagraph (A) by all reimbursing employers except the state of Kansas.
28 Each reimbursing employer shall report total wages paid during each
29 calendar quarter by filing quarterly wage reports with the secretary that
30 shall be filed by the last day of the month following the close of each
31 calendar quarter. Wage reports are deemed filed as of the date they are
32 placed in the United States mail.

33 (A) At the end of each calendar quarter, or at the end of any other
34 period as determined by the secretary, the secretary shall bill each
35 reimbursing employer, except the state of Kansas: (i) An amount to be paid
36 that is equal to the full amount of regular benefits plus $\frac{1}{2}$ of the amount of
37 extended benefits paid during such quarter or other prescribed period that
38 is attributable to service in the employ of such reimbursing employer; and
39 (ii) for weeks of unemployment beginning after December 31, 1978, each
40 reimbursing governmental employer and December 21, 2000, for Indian
41 tribes or tribal units shall be certified an amount to be paid that is equal to
42 the full amount of regular benefits and extended benefits paid during such
43 quarter or other prescribed period that is attributable to service in the

1 employ of such reimbursing governmental employer.

2 (B) Payment of any bill rendered under subparagraph (A) shall be
3 made not later than 30 days after such bill was mailed to the last known
4 address of the reimbursing employer, or otherwise was delivered to such
5 reimbursing employer, unless there has been an application for review and
6 redetermination in accordance with subparagraph (D).

7 (C) Payments made by any reimbursing employer under the
8 provisions of this subsection (e)(2) shall not be deducted or deductible, in
9 whole or in part, from the remuneration of individuals in the employ of
10 such employer.

11 (D) The amount due specified in any bill from the secretary shall be
12 conclusive on the reimbursing employer, unless, not later than 15 days
13 after the bill was mailed to the last known address of such employer, or
14 was otherwise delivered to such employer, the reimbursing employer files
15 an application for redetermination in accordance with K.S.A. 44-710b, and
16 amendments thereto.

17 (E) Past due payments of amounts certified by the secretary under
18 this section shall be subject to the same interest, penalties and actions
19 required by K.S.A. 44-717, and amendments thereto. (1) If any nonprofit
20 organization or group of nonprofit organizations described in section
21 501(c)(3) of the federal internal revenue code of 1986 or governmental
22 reimbursing employer is delinquent in making payments of amounts
23 certified by the secretary under this section, the secretary may terminate
24 such employer's election to make payments in lieu of contributions as of
25 the beginning of the next calendar year and such termination shall be
26 effective for such next calendar year and the calendar year thereafter so
27 that the termination is effective for two complete calendar years. (2)
28 Failure of the Indian tribe or tribal unit to make required payments,
29 including assessment of interest and penalty within 90 days of receipt of
30 the bill will cause the Indian tribe to lose the option to make payments in
31 lieu of contributions as described pursuant to paragraph (e)(1) for the
32 following tax year unless payment in full is received before contribution
33 rates for the next tax year are calculated. (3) Any Indian tribe that loses the
34 option to make payments in lieu of contributions due to late payment or
35 nonpayment, as described in paragraph (2), shall have such option
36 reinstated, if after a period of one year, all contributions have been made
37 on time and no contributions, payments in lieu of contributions for benefits
38 paid, penalties or interest remain outstanding.

39 (F) Failure of the Indian tribe or any tribal unit thereof to make
40 required payments, including assessments of interest and penalties, after
41 all collection activities deemed necessary by the secretary have been
42 exhausted, will cause services performed by such tribe to not be treated as
43 employment for purposes of K.S.A. 44-703(i)(3)(E), and amendments

1 thereto. If an Indian tribe fails to make payments required under this
2 section, including assessments of interest and penalties, within 90 days of
3 a final notice of delinquency, the secretary shall immediately notify the
4 United States internal revenue service and the United States department of
5 labor. The secretary may determine that any Indian tribe that loses
6 coverage pursuant to this paragraph may have services performed on
7 behalf of such tribe again deemed "employment" if all contributions,
8 payments in lieu of contributions, penalties and interest have been paid.

9 (G) In the discretion of the secretary, any employer who elects to
10 become liable for payments in lieu of contributions and any nonprofit
11 organization or group of nonprofit organizations described in section
12 501(c)(3) of the federal internal revenue code of 1986 or governmental
13 reimbursing employer or Indian tribe or tribal unit who is delinquent in
14 filing reports or in making payments of amounts certified by the secretary
15 under this section shall be required within 60 days after the effective date
16 of such election, in the case of an eligible employer so electing, or after the
17 date of notification to the delinquent employer under this subsection (e)(2)
18 (G), in the case of a delinquent employer, to execute and file with the
19 secretary a surety bond, except that the employer may elect, in lieu of a
20 surety bond, to deposit with the secretary money or securities as approved
21 by the secretary or to purchase and deliver to an escrow agent a certificate
22 of deposit to guarantee payment. The amount of the bond, deposit or
23 escrow agreement required by this subsection (e)(2)(G) shall not exceed
24 5.4% of the organization's taxable wages paid for employment by the
25 eligible employer during the four calendar quarters immediately preceding
26 the effective date of the election or the date of notification, in the case of a
27 delinquent employer. If the employer did not pay wages in each of such
28 four calendar quarters, the amount of the bond or deposit shall be as
29 determined by the secretary. Upon the failure of an employer to comply
30 with this subsection (e)(2)(G) within the time limits imposed or to
31 maintain the required bond or deposit, the secretary may terminate the
32 election of such eligible employer or delinquent employer, as the case may
33 be, to make payments in lieu of contributions, and such termination shall
34 be effective for the current and next calendar year.

35 (H) The state of Kansas shall make reimbursement payments
36 quarterly at a fiscal year rate that shall be based upon: (i) The available
37 balance in the state's reimbursing account as of December 31 of each
38 calendar year; (ii) the historical unemployment experience of all covered
39 state agencies during prior years; (iii) the estimate of total covered wages
40 to be paid during the ensuing calendar year; (iv) the applicable fiscal year
41 rate of the claims processing and auditing fee under K.S.A. 75-3798, and
42 amendments thereto; and (v) actuarial and other information furnished to
43 the secretary by the secretary of administration. In accordance with K.S.A.

1 75-3798, and amendments thereto, the claims processing and auditing fees
2 charged to state agencies shall be deducted from the amounts collected for
3 the reimbursement payments under this paragraph (H) prior to making the
4 quarterly reimbursement payments for the state of Kansas. The fiscal year
5 rate shall be expressed as a percentage of covered total wages and shall be
6 the same for all covered state agencies. The fiscal year rate for each fiscal
7 year will be certified in writing by the secretary to the secretary of
8 administration on July 15 of each year and such certified rate shall become
9 effective on the July 1 immediately following the date of certification. A
10 detailed listing of benefit charges applicable to the state's reimbursing
11 account shall be furnished quarterly by the secretary to the secretary of
12 administration and the total amount of charges deducted from previous
13 reimbursing payments made by the state. On January 1 of each year, if it is
14 determined that benefit charges exceed the amount of prior reimbursing
15 payments, an upward adjustment shall be made therefor in the fiscal year
16 rate to be certified on the ensuing July 15. If total payments exceed benefit
17 charges, all or part of the excess may be refunded, at the discretion of the
18 secretary, from the fund or retained in the fund as part of the payments that
19 may be required for the next fiscal year.

20 (3) *Allocation of benefit costs.* The reimbursing account of each
21 reimbursing employer shall be charged the full amount of regular benefits
22 and $\frac{1}{2}$ of the amount of extended benefits paid except that each
23 reimbursing governmental employer's account shall be charged the full
24 amount of regular benefits and extended benefits paid for weeks of
25 unemployment beginning after December 31, 1978, to individuals whose
26 entire base period wage credits are from such employer. When benefits
27 received by an individual are based upon base period wage credits from
28 more than one employer then the reimbursing employer's or reimbursing
29 governmental employer's account shall be charged in the same ratio as
30 base period wage credits from such employer bear to the individual's total
31 base period wage credits. Notwithstanding any other provision of the
32 employment security law, no reimbursing employer's or reimbursing
33 governmental employer's account shall be charged for payments of
34 extended benefits that are wholly reimbursed to the state by the federal
35 government. Payments of unemployment compensation that are wholly
36 reimbursed to the reimbursing employer by the federal government shall
37 be charged for the purpose of such reimbursement under the federal
38 CARES act, public law 116-136.

39 (A) *Proportionate allocation (when fewer than all reimbursing base*
40 *period employers are liable).* If benefits paid to an individual are based on
41 wages paid by one or more reimbursing employers and on wages paid by
42 one or more contributing employers or rated governmental employers, the
43 amount of benefits payable by each reimbursing employer shall be an

1 amount that bears the same ratio to the total benefits paid to the individual
2 as the total base period wages paid to the individual by such employer
3 bears to the total base period wages paid to the individual by all of such
4 individual's base period employers.

5 (B) *Proportionate allocation (when all base period employers are*
6 *reimbursing employers)*. If benefits paid to an individual are based on
7 wages paid by two or more reimbursing employers, the amount of benefits
8 payable by each such employer shall be an amount that bears the same
9 ratio to the total benefits paid to the individual as the total base period
10 wages paid to the individual by such employer bear to the total base period
11 wages paid to the individual by all of such individual's base period
12 employers.

13 (4) *Group accounts*. Two or more reimbursing employers may file a
14 joint application to the secretary for the establishment of a group account
15 for the purpose of sharing the cost of benefits paid that are attributable to
16 service in the employment of such reimbursing employers. Each such
17 application shall identify and authorize a group representative to act as the
18 group's agent for the purposes of this ~~subsection (e)(4)~~ *paragraph*. Upon
19 approval of the application, the secretary shall establish a group account
20 for such employers effective as of the beginning of the calendar quarter in
21 which the secretary receives the application and shall notify the group's
22 representative of the effective date of the account. Such account shall
23 remain in effect for not less than four years and thereafter such account
24 shall remain in effect until terminated at the discretion of the secretary or
25 upon application by the group. Upon establishment of the account, each
26 member of the group shall be liable for payments in lieu of contributions
27 with respect to each calendar quarter in the amount that bears the same
28 ratio to the total benefits paid in such quarter that are attributable to service
29 performed in the employ of all members of the group as the total wages
30 paid for service in employment by such member in such quarter bear to the
31 total wages paid during such quarter for service performed in the employ
32 of all members of the group. The secretary shall adopt such rules and
33 regulations as the secretary deems necessary with respect to applications
34 for establishment, maintenance and termination of group accounts that are
35 authorized by this ~~subsection (e)(4)~~ *paragraph*, for addition of new
36 members to, and withdrawal of active members from such accounts, and
37 for the determination of the amounts that are payable under this ~~subsection~~
38 ~~(e)(4)~~ *paragraph* by members of the group and the time and manner of
39 such payments.

40 Sec. 2. K.S.A. 2020 Supp. 44-710b is hereby amended to read as
41 follows: 44-710b. (a) *By the secretary of labor*. The secretary of labor shall
42 promptly notify each contributing employer of its rate of contributions,
43 each rated governmental employer of its benefit cost rate and each

1 reimbursing employer of its benefit liability as determined for any
2 calendar year pursuant to K.S.A. 44-710 and 44-710a, and amendments
3 thereto, on or before November 30 of the calendar year immediately
4 preceding the calendar year in which such rate takes effect. Such
5 determination shall become conclusive and binding upon the employer
6 unless, within 15 days after the mailing of notice thereof to the employer's
7 last known address or in the absence of mailing, within 15 days after the
8 delivery of such notice, the employer files an application for review and
9 redetermination, setting forth the reasons therefor. If the secretary of labor
10 grants such review, the employer shall be promptly notified thereof and
11 shall be granted an opportunity for a fair hearing, but no employer shall
12 have standing, in any proceeding involving the employer's rate of
13 contributions or benefit liability, to contest the chargeability to the
14 employer's account of any benefits paid in accordance with a
15 determination, redetermination or decision pursuant to ~~subsection (c)~~ of
16 K.S.A. 44-710(c), and amendments thereto, except upon the ground that
17 the services on the basis of which such benefits were found to be
18 chargeable did not constitute services performed in employment for the
19 employer and only in the event that the employer was not a party to such
20 determination, redetermination or decision or to any other proceedings
21 under this act in which the character of such services was determined. Any
22 such hearing conducted pursuant to this section shall be heard in the
23 county where the contributing employer maintains its principle place of
24 business. The hearing officer shall render a decision concerning all matters
25 at issue in the hearing within 90 days.

26 (b) (1) *The secretary shall, without necessity of a request by an*
27 *employer or a hearing, immediately and fully credit an employer's account*
28 *for any benefits paid upon a determination by the secretary that such*
29 *benefits were paid to any person who received such benefits: (A) By fraud;*
30 *or (B) in error where any conditions imposed by this act for the receipt of*
31 *benefits were not fulfilled or where the recipient was not qualified to or*
32 *disqualified from receiving such benefits.*

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

43 (B) *Reimbursing employers shall be refunded immediately, without*

1 *necessity of a request or a hearing, for reimbursements made to the state*
2 *for any claims or benefits paid on or after March 15, 2020, that are or*
3 *have been reported to the secretary as fraudulent. Amounts refunded shall*
4 *become due, subject to appeal as provided by the employment security*
5 *law, upon a determination by the secretary, as provided by subparagraph*
6 *(A), that the benefits were paid properly and not by fraud or in error.*

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

13 *(3) The secretary shall review all reimbursing employer accounts for*
14 *the 20-year period preceding July 1, 2021, and shall apply credit for any*
15 *benefits previously paid by fraud or in error, as provided by paragraph*
16 *(1), that have been charged against a reimbursing employer's account and*
17 *have not yet been recovered through normal recovery efforts.*

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

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

43 *(e) (1) The secretary shall review the information reported by the*

1 *United States department of labor pursuant to the payment integrity*
2 *information act of 2019, public law 116-117, and any other relevant*
3 *information available from the United States department of labor and any*
4 *relevant information held by the department of labor available to the*
5 *secretary regarding improper payment amounts for the state of Kansas for*
6 *the period beginning on March 15, 2020, through December 31, 2022. The*
7 *secretary shall determine the amount of such improper payments within 60*
8 *days of any such information becoming available for any portion of such*
9 *period and shall immediately certify such amount for such time period to*
10 *the director of accounts and reports. The secretary shall certify any*
11 *additional amount for any such time period within 60 days of information*
12 *supporting an additional amount becoming available. At the same time*
13 *that the secretary certifies the amount to the director of accounts and*
14 *reports, the secretary shall transmit a copy of each such certification to*
15 *the director of the budget and the director of legislative research. Upon*
16 *receipt of each such certification, the director of accounts and reports*
17 *shall transfer an amount equal to the amount certified from the state*
18 *general fund to the unemployment insurance trust fund. If the governor*
19 *determines that it is prudent for the transfer to be from a different fund in*
20 *the state treasury, the governor, with the approval of the state finance*
21 *council acting on this matter, which is hereby characterized as a matter of*
22 *legislative delegation and subject to the guidelines prescribed in K.S.A.*
23 *75-3711c(c), and amendments thereto, may authorize the transfer from*
24 *such different fund.*

25 *(2) For purposes of this subsection, "improper payment amounts" or*
26 *"improper payments" means any payment that should not have been made*
27 *or that was made in an incorrect amount under statutory, contractual,*
28 *administrative or other legally applicable requirements and includes any*
29 *payment to an ineligible recipient.*

30 *(f) If the legislature finds that, subject to federal law, it is prudent for*
31 *the unemployment insurance trust fund to be appropriated an allocation of*
32 *any federal funds received after January 1, 2021, in response to any*
33 *pandemic, the legislature shall approve of such appropriation by an act of*
34 *the legislature.*

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

39 *Sec. 3. K.S.A. 2020 Supp. 44-710 and 44-710b are hereby repealed.*

40 *Sec. 4. This act shall take effect and be in force from and after its*
41 *publication in the statute book.*