AN ACT concerning governmental response to the 2020 COVID-19 pandemic in Kansas; providing certain relief related to health, welfare, property and economic security during this public health emergency; making and concerning appropriations for the fiscal years ending June 30, 2020, and June 30, 2021, for the legislative coordinating council and the governor's department; relating to the state of disaster emergency; powers of the governor and executive officers; providing certain limitations and restrictions; business and commercial activities, local health officials; violations of the emergency management act; requiring county health officers to share certain information with first responder agencies and 911 call centers; imposing requirements on the Kansas department for aging and disability services related to infection prevention and control practices and recommendations, infection control inspections and providing personal protective equipment; authorizing the expanded use of telemedicine in response to the COVID-19 public health emergency; imposing requirements related thereto; suspending certain requirements related to medical care facilities; expiring such provisions; relating to changes in the employment security law in response to the COVID-19 public health emergency; eligibility for benefits; contribution rates; federal reimbursement; employer notifications; shared work plan eligibility; amending K.S.A. 48-923, 48-939 and 65-468 and K.S.A. 2019 Supp. 44-702, 44-705, as amended by section 2 of 2020 Senate Bill No. 27, 44-709, 44-710, 44-757 and 48-925 and repealing the existing sections.

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

Section 1.

LEGISLATIVE COORDINATING COUNCIL

(a) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year ending June 30, 2020, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law shall not exceed the following:

Coronavirus relief fund....................................................No limit

Provided, That, all moneys in the coronavirus relief fund shall be used for the purposes of relief for the effects of coronavirus in the state of Kansas
as set forth in such federal grant or receipt: Provided further, That, the
director of the budget shall submit each request of a state agency for
expenditures from the coronavirus relief fund during the fiscal year ending
June 30, 2020, to the legislative budget committee: And provided further,
That, the legislative budget committee shall meet and review each such
request of the director of the budget and shall report such committee's
recommendation on each such request to the legislative coordinating
council: And provided further, That, after receiving recommendations from
the legislative budget committee, expenditures may be made from the
coronavirus relief fund upon an affirmative vote of the legislative
coordinating council in accordance with K.S.A. 46-1202, and amendments
thereto, except that such disbursements and expenditures may be approved
while the legislature is in session: And provided further, That, the
legislative coordinating council is hereby authorized to approve the
disbursement and expenditure of moneys from the coronavirus relief fund
for such purposes: And provided further, That, upon receipt of such
approval by the legislative coordinating council, the director of accounts
and reports is hereby authorized to transfer such moneys from the
coronavirus relief fund to a newly created special revenue fund of the
requesting state agency: And provided further, That, there is appropriated
for such requesting state agency from the newly created special revenue
fund or funds for the fiscal year ending June 30, 2020, all moneys now or
hereafter lawfully credited to and available in such fund or funds.

(b) On the effective date of this act, the director of accounts and
reports shall transfer all moneys in the coronavirus relief fund - federal
fund (252-00-3753) of the governor's department to the coronavirus relief
fund of the legislative coordinating council. On the effective date of this
act, all liabilities of the coronavirus relief fund - federal fund are hereby
transferred to and imposed on the coronavirus relief fund and the
coronavirus relief fund - federal fund is hereby abolished.

Sec. 2.

LEGISLATIVE COORDINATING COUNCIL

(a) There is appropriated for the above agency from the following
special revenue fund or funds for the fiscal year ending June 30, 2021, all
moneys now or hereafter lawfully credited to and available in such fund or
funds, except that expenditures other than refunds authorized by law shall
not exceed the following:
Coronavirus relief fund.................................................................No limit
Provided, That, all moneys in the coronavirus relief fund shall be used for
the purposes of relief for the effects of coronavirus in the state of Kansas
as set forth in such federal grant or receipt: Provided further, That, the
director of the budget shall submit each request of a state agency for
expenditures from the coronavirus relief fund during the fiscal year ending
June 30, 2021, to the legislative budget committee: And provided further, That, the legislative budget committee shall meet and review each such request of the director of the budget and shall report such committee's recommendation on each such request to the legislative coordinating council: And provided further, That, after receiving recommendations from the legislative budget committee, expenditures may be made from the coronavirus relief fund upon an affirmative vote of the legislative coordinating council in accordance with K.S.A. 46-1202, and amendments thereto, except that such disbursements and expenditures may be approved while the legislature is in session: And provided further, That, the legislative coordinating council is hereby authorized to approve the disbursement and expenditure of moneys from the coronavirus relief fund for such purposes: And provided further, That, upon receipt of such approval by the legislative coordinating council, the director of accounts and reports is hereby authorized to transfer such moneys from the coronavirus relief fund to a newly created special revenue fund of the requesting state agency: And provided further, That, there is appropriated for such requesting state agency from the newly created special revenue fund or funds for the fiscal year ending June 30, 2021, all moneys now or hereafter lawfully credited to and available in such fund or funds.

Sec. 3. (a) On the effective date of this act, notwithstanding the provisions of section 189 of chapter 68 of the 2019 Session Laws of Kansas for fiscal year 2020 and section 179 of 2020 Senate Bill No. 66 for fiscal year 2021, for fiscal year 2020 and fiscal year 2021 concerning each federal grant or other federal receipt that is received by a state agency named in chapter 68 of the 2019 Session Laws of Kansas or 2020 Senate Bill No. 66, that concerns moneys from the federal government for aid to the state of Kansas for coronavirus relief as appropriated in section 601(c)(2)(A) of the federal CARES act, public law 116-136, and that is not otherwise appropriated to that state agency for fiscal year 2020 or 2021 by chapter 68 of the 2019 Session Laws of Kansas, 2020 Senate Bill No. 66 or this appropriation act of the 2020 regular session of the legislature, such federal grant or other federal receipt is hereby appropriated for fiscal year 2020 and fiscal year 2021 to the coronavirus relief fund of the legislative coordinating council for the purpose set forth in such federal grant or receipt.

(b) On the effective date of this act, the provisions of section 189 of chapter 68 of the 2019 Session Laws of Kansas for fiscal year 2020 and section 179 of 2020 Senate Bill No. 66 for fiscal year 2021, for fiscal year 2020 and fiscal year 2021 concerning federal grants or other federal receipt that are received by a state agency named in chapter 68 of the 2019 Session Laws of Kansas or 2020 Senate Bill No. 66 and that concerns moneys from the federal government for aid to the state of Kansas for
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1 coronavirus relief as appropriated in section 601(c)(2)(A) of the federal
2 CARES act, public law 116-136, shall be null and void and shall have no
3 force and effect.
4 Sec. 4. (a) On the effective date of this act, notwithstanding the
5 provisions of section 189 of chapter 68 of the 2019 Session Laws of
6 Kansas for fiscal year 2020 and section 179 of 2020 Senate Bill No. 66 for
7 fiscal year 2021, in addition to the other purposes for which expenditures
8 may be made by any state agency that is named in chapter 68 of the 2019
9 Session Laws of Kansas or 2020 Senate Bill No. 66, expenditures may be
10 made by such state agency from moneys appropriated for fiscal year 2020
11 and fiscal year 2021 by chapter 68 of the 2019 Session Laws of Kansas,
12 2020 Senate Bill No. 66, or this appropriation act of the 2020 regular
13 session of the legislature, to apply for and receive federal grants during
14 fiscal year 2020 and fiscal year 2021, which federal grants are hereby
15 authorized to be applied for and received by such state agencies that
16 concerns moneys from the federal government for aid to the state of
17 Kansas for coronavirus relief as appropriated in the federal CARES act,
18 public law 116-136, the coronavirus preparedness and response
19 supplemental appropriations act, 2020, public law 116-123, the federal
20 families first coronavirus response act, public law 116-127, the federal
21 paycheck protection program and health care enhancement act, public law
22 116-139, and any other federal law that appropriates moneys to the state
23 for aid for coronavirus relief, subject to the following provisions:
24 Provided, That, no expenditure shall be made from and no obligation shall
25 be incurred against any such federal grant or other federal receipt that has
26 not been previously appropriated or reappropriated, until the legislative
27 coordinating council has authorized the state agency to make expenditures
28 therefrom: Provided further, That, the director of the budget shall submit
29 each such federal grant expenditure request of a state agency concerning
30 coronavirus relief during fiscal year 2020 and fiscal year 2021, to the
31 legislative budget committee: And provided further, That, the legislative
32 budget committee shall meet and review each such federal grant
33 expenditure request of the director of the budget and shall report such
34 committee's recommendation on each such federal grant expenditure
35 request to the legislative coordinating council: And provided further, That,
36 after receiving recommendations from the legislative budget committee,
37 such requests may be approved upon an affirmative vote of the legislative
38 coordinating council in accordance with K.S.A. 46-1202, and amendments
39 thereto, except that such requests may be approved while the legislature is
40 in session: And provided further, That the legislative coordinating council
41 is hereby authorized to approve the requests for such purposes: And
42 provided further, That, upon receipt of such approval by the legislative
43 coordinating council, the requesting state agency is authorized to expend
all approved moneys now or hereafter lawfully credited to and available in
such fund or funds during fiscal year 2020 and fiscal year 2021.

(b) On the effective date of this act, the provisions of section 189 of
chapter 68 of the 2019 Session Laws of Kansas for fiscal year 2020 and
section 179 of 2020 Senate Bill No. 66, for fiscal year 2020 and fiscal year
2021 concerning federal grants or other federal receipt that are received by
a state agency named in chapter 68 of the 2019 Session Laws of Kansas or
2020 Senate Bill No. 66 and that concerns moneys from the federal
government for aid to the state of Kansas for coronavirus relief as
appropriated in the federal CARES act, public law 116-136, the
coronavirus preparedness and response supplemental appropriations act,
2020, public law 116-123, the federal families first coronavirus response
act, public law 116-127, the federal paycheck protection program and
health care enhancement act, public law 116-139, and any other federal
law that appropriates moneys to the state for aid for coronavirus relief,
shall be null and void and shall have no force and effect.

New Sec. 5. (a) The state of disaster emergency that was declared by
the governor pursuant to K.S.A. 48-924, and amendments thereto, by
proclamation on March 12, 2020, which was ratified and continued in
force and effect through May 1, 2020, by 2020 House Concurrent
Resolution No. 5025, adopted by the house of representatives with the
senate concurring therein on March 19, 2020, and declared by
proclamation on April 30, 2020, which was extended and continued in
existence by the state finance council on May 13, 2020, for an additional
12 days through May 26, 2020, for all 105 counties of Kansas, as a result
of the COVID-19 health emergency, is hereby ratified and continued in
existence from March 12, 2020, through May 26, 2020.

(b) The governor shall not proclaim any new state of disaster
emergency related to the COVID-19 health emergency during 2020, unless
the governor makes specific application to the state finance council and an
affirmative vote of at least six legislative members approve such action by
the governor.

New Sec. 6. (a) Notwithstanding any other provision of law, during
any state of disaster emergency declared under K.S.A. 48-924, and
amendments thereto, neither the governor nor any executive officer or
employee of the state of Kansas shall order the closure or cessation of any
business or commercial activity in response to any or all conditions
necessitating the declared state of disaster emergency for more than a
cumulative total of 15 days in duration during 2020.

(b) Any order issued that violates or exceeds the restrictions provided
in subsection (a) shall not have the force and effect of law during the
period of a state of disaster emergency declared under K.S.A. 48-924(b),
and amendments thereto, and any such order shall be null and void.
(c) If the governor or any other executive officer or employee of the state of Kansas orders the closure or cessation of any business or commercial activity during any state of disaster emergency declared under K.S.A. 48-924, and amendments thereto, upon the expiration of any such order, the authority to determine whether any such business or commercial activity should be prohibited from reopening and resuming business or commercial activities shall be vested in local health officials pursuant to applicable provisions of chapter 65 of the Kansas Statutes Annotated, and amendments thereto. In such event, any order of local health officials shall be based on local needs and conditions and shall be subject to review and approval, disapproval or modification by the applicable board of county commissioners within three days.

(d) The provisions of this section shall expire on January 1, 2021.

New Sec. 7. (a) During a state of disaster emergency declared under K.S.A. 48-924, and amendments thereto, related to the COVID-19 public health emergency, each county health officer shall work with first responder agencies operating in the county to establish a method to share information indicating where a person testing positive for or under quarantine or isolation due to COVID-19 resides or can be expected to be present. Such information shall:

(1) Include the address for such person and, as applicable, the duration of the quarantine, isolation or expected recovery period for such person as determined by the county health officer; and

(2) only be used for the purpose of allowing the first responders to be alert to the need for utilizing appropriate personal protective equipment during the response activity.

(b) The information described in subsection (a) shall be provided to the 911 call center for the area serving the address provided. The 911 call center shall disseminate the information only to first responders responding to the listed address.

(c) All information provided or disseminated under this section shall not be a public record and shall not be subject to the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto. The provisions of this subsection shall expire on July 1, 2025, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto.

New Sec. 8. The Kansas department for aging and disability services shall, for all entities required to be licensed pursuant to article 9 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto:

(a) Promptly, and in no case later than 30 days following the effective date of this act, make or cause to be made infection control inspections;

(b) provide the necessary personal protective equipment, sanitizing supplies and testing kits appropriate to the needs of each facility on an
ongoing basis, based upon:

(1) The current number of residents;
(2) the current number of full-time and part-time staff members;
(3) the number of residents and staff who have tested positive for COVID-19 in the last 14 days;
(4) the ability to separate COVID-19 residents from non-COVID-19 residents; and
(5) any other factors deemed relevant by the secretary; and

c) ensure that infection prevention and control best practices and recommendations based upon guidance from the United States centers for disease control and prevention and the Kansas department of health and environment are adopted and made available publicly.

New Sec. 9. (a) A physician may issue a prescription for or order the administration of medication, including a controlled substance, for a patient without conducting an in-person examination of such patient.
(b) A physician under quarantine, including self-imposed quarantine, may practice telemedicine.
(c) (1) A physician holding a license issued by the applicable licensing agency of another state may practice telemedicine to treat patients located in the state of Kansas, if such out-of-state physician:
(A) Advises the state board of healing arts of such practice in writing and in a manner determined by the state board of healing arts; and
(B) holds an unrestricted license to practice medicine and surgery in the other state and is not the subject of any investigation or disciplinary action by the applicable licensing agency.
(2) The state board of healing arts may extend the provisions of this subsection to other healthcare professionals licensed and regulated by the board as deemed necessary by the board to address the impacts of COVID-19 and consistent with ensuring patient safety.
(d) A physician practicing telemedicine in accordance with this section shall conduct an appropriate assessment and evaluation of the patient's current condition and document the appropriate medical indication for any prescription issued.
(e) Nothing in this section shall supersede or otherwise affect the provisions of K.S.A. 65-4a10, and amendments thereto, or K.S.A. 2019 Supp. 40-2,215, and amendments thereto.
(f) As used in this section:
(1) "Physician" means a person licensed to practice medicine and surgery.
(2) "Telemedicine" means the delivery of healthcare services by a healthcare provider while the patient is at a different physical location.
(g) This section shall expire 120 calendar days after the expiration or termination of the state of disaster emergency proclamation issued by the
governor in response to the COVID-19 public health emergency, or any
extension thereof.

New Sec. 10.  (a) (1) A hospital may admit patients in excess of such
hospital's number of licensed beds or inconsistent with the licensed
classification of such hospital's beds to the extent that such hospital
determines is necessary to treat COVID-19 patients and to separate
COVID-19 patients and non-COVID-19 patients.

(2) A hospital admitting patients in such manner shall notify the
department of health and environment as soon as practicable but shall not
be required to receive prior authorization to admit patients in such manner.

(b) (1) A hospital may utilize non-hospital space, including off-
campus space, to perform COVID-19 testing, triage, quarantine or patient
care to the extent that such hospital determines is necessary to treat
COVID-19 patients and to separate COVID-19 patients and non-COVID-
19 patients.

(2) The department of health and environment may impose
reasonable safety requirements on such use of non-hospital space to
maximize the availability of patient care.

(3) Non-hospital space used in such manner shall be deemed to meet
the requirements of K.S.A. 65-431(d), and amendments thereto.

(4) A hospital utilizing non-hospital space in such manner shall notify
the department of health and environment as soon as practicable but shall
not be required to receive prior authorization to utilize non-hospital space
in such manner.

(c) A medical care facility may permit healthcare providers
authorized to provide healthcare services in the state of Kansas to provide
healthcare services at such medical care facility without becoming a
member of the medical care facility's medical staff.

(d) As used in this section, "hospital" and "medical care facility"
mean the same as defined in K.S.A. 65-425, and amendments thereto.

(e) This section shall expire 120 calendar days after the expiration or
termination of the state of disaster emergency proclamation issued by the
governor in response to the COVID-19 public health emergency, or any
extension thereof.

New Sec. 11.  (a) Notwithstanding any statute to the contrary, the state
board of healing arts may grant a temporary emergency license to practice
any profession licensed, certified, registered or regulated by the board to
an applicant with qualifications the board deems sufficient to protect
public safety and welfare within the scope of professional practice
authorized by the temporary emergency license for the purpose of
preparing for, responding to or mitigating any effect of COVID-19.

(b) This section shall expire 120 calendar days after the expiration or
termination of the state of disaster emergency proclamation issued by the
governor in response to the COVID-19 public health emergency, or any extension thereof.

Sec. 12. K.S.A. 2019 Supp. 44-702 is hereby amended to read as follows: 44-702. As a guide to the interpretation and application of this act, the public policy of this state is declared to be as follows: Economic insecurity, due to unemployment, is a serious menace to health, morals, and welfare of the people of this state. Involuntary unemployment is therefore a subject of general interest and concern which requires appropriate action by the legislature to prevent its spread and to lighten its burden which now so often falls with crushing force upon the unemployed worker and such worker's family. The achievement of social security requires protection against this greatest hazard of our economic life. This can be provided by encouraging employers to provide more stable employment and by the systematic accumulation of funds during periods of employment to provide benefits for periods of unemployment, thus maintaining purchasing power and limiting the serious social consequences of poor-relief assistance. The legislature, therefore, declares that in its considered judgment the public good and the general welfare of the citizens of this state require the enactment of this measure, under the police powers of the state, for the compulsory setting aside of unemployment reserves to be used for the benefit of persons unemployed. The state of Kansas is committed to maintaining and strengthening access to the unemployment compensation system, including through initial and continuing claims. All persons and employers are entitled to a neutral interpretation of the employment security law.

Sec. 13. K.S.A. 2019 Supp. 44-705, as amended by section 2 of 2020 Senate Bill No. 27, is hereby amended to read as follows: 44-705. Except as provided by K.S.A. 44-757, and amendments thereto, an unemployed individual shall be eligible to receive benefits with respect to any week only if the secretary, or a person or persons designated by the secretary, finds that:

(a) The claimant has registered for work at and thereafter continued to report at an employment office in accordance with rules and regulations adopted by the secretary, except that, subject to the provisions of K.S.A. 44-704(a), and amendments thereto, the secretary may adopt rules and regulations that waive or alter either or both of the requirements of this subsection.

(b) The claimant has made a claim for benefits with respect to such week in accordance with rules and regulations adopted by the secretary.

(c) The claimant is able to perform the duties of such claimant's customary occupation or the duties of other occupations that the claimant is reasonably fitted by training or experience, and is available for work, as demonstrated by the claimant's pursuit of the full course of action most
reasonably calculated to result in the claimant's reemployment except that,
notwithstanding any other provisions of this section, an unemployed
claimant otherwise eligible for benefits shall not become ineligible for
benefits: (1) Because of the claimant's enrollment in and satisfactory
pursuit of approved training, including training approved under section
236(a)(1) of the trade act of 1974; or (2) solely because such individual is
seeking only part-time employment if the individual is available for a
number of hours per week that are comparable to the individual's part-time
work experience in the base period; or (3) because a claimant is not
actively seeking work: (i) During a state of disaster emergency proclaimed
by the governor pursuant to K.S.A. 48-924 and 48-925, and amendments
thereto; (ii) in response to the spread of the public health emergency of
COVID-19; and (iii) the state's temporary waiver of the work search
requirement under the employment security law for such claimant is in
compliance with the families first coronavirus response act, public law
116-127.

For the purposes of this subsection, an inmate of a custodial or
correctional institution shall be deemed to be unavailable for work and not
eligible to receive unemployment compensation while incarcerated.

(d) (1) Except as provided further, the claimant has been unemployed
for a waiting period of one week or the claimant is unemployed and has
satisfied the requirement for a waiting period of one week under the shared
work unemployment compensation program as provided in K.S.A. 44-
757(k)(4), and amendments thereto, and that period of one week, in either
case, occurs within the benefit year that includes the week for which the
claimant is claiming benefits. No week shall be counted as a week of
unemployment for the purposes of this subsection:

(A) If benefits have been paid for such week;
(B) if the individual fails to meet with the other eligibility
requirements of this section; or
(C) if an individual is seeking unemployment benefits under the
unemployment compensation law of any other state or of the United
States, except that if the appropriate agency of such state or of the United
States finally determines that the claimant is not entitled to unemployment
benefits under such other law, this subparagraph shall not apply.

(2) (A) The waiting week requirement of paragraph (1) shall not
apply to:

(i) New claims by claimants who become unemployed as a result of
an employer terminating business operations within this state, declaring
bankruptcy or initiating a work force reduction pursuant to public law 100-
379, the federal worker adjustment and retraining notification act, 29
U.S.C. §§ 2101 through 2109, as amended; or
(ii) new claims filed on or after April 5, 2020, through December 26,

(B) The secretary shall adopt rules and regulations to administer the provisions of this paragraph.

(3) If the waiting week requirement of paragraph (1) applies, a claimant shall become eligible to receive compensation for the waiting period of one week, pursuant to paragraph (1), upon completion of three weeks of unemployment consecutive to such waiting period. This paragraph shall not apply to initial claims effective on and after April 1, 2021.

(e) For benefit years established on and after the effective date of this act, the claimant has been paid total wages for insured work in the claimant's base period of not less than 30 times the claimant's weekly benefit amount and has been paid wages in more than one quarter of the claimant's base period, except that the wage credits of an individual earned during the period commencing with the end of a prior base period and ending on the date that such individual filed a valid initial claim shall not be available for benefit purposes in a subsequent benefit year unless, in addition thereto, such individual has returned to work and subsequently earned wages for insured work in an amount equal to at least eight times the claimant's current weekly benefit amount.

(f) The claimant participates in reemployment services, such as job search assistance services, if the individual has been determined to be likely to exhaust regular benefits and needs reemployment services pursuant to a profiling system established by the secretary, unless the secretary determines that: (1) The individual has completed such services; or (2) there is justifiable cause for the claimant's failure to participate in such services.

(g) The claimant is returning to work after a qualifying injury and has been paid total wages for insured work in the claimant's alternative base period of not less than 30 times the claimant's weekly benefit amount and has been paid wages in more than one quarter of the claimant's alternative base period if:

(1) The claimant has filed for benefits within four weeks of being released to return to work by a licensed and practicing health care provider;

(2) the claimant files for benefits within 24 months of the date the qualifying injury occurred; and

(3) the claimant attempted to return to work with the employer where the qualifying injury occurred, but the individual's regular work or comparable and suitable work was not available.

Sec. 14. K.S.A. 2019 Supp. 44-709 is hereby amended to read as follows: 44-709. (a) Filing. Claims for benefits shall be made in
accordance with rules and regulations adopted by the secretary. The secretary shall furnish a copy of such rules and regulations to any individual requesting them. Each employer shall: (1) Post and maintain printed statements furnished by the secretary without cost to the employer in places readily accessible to individuals in the service of the employer; and (2) provide any other notification to individuals in the service of the employer as required by the secretary pursuant to the families first coronavirus response act, public law 116-127.

(b) Determination. (1) Except as otherwise provided in this paragraph, a representative designated by the secretary, and hereinafter referred to as an examiner, shall promptly examine the claim and, on the basis of the facts found by the examiner, shall determine whether or not the claim is valid. If the examiner determines that the claim is valid, the examiner shall determine the first day of the benefit year, the weekly benefit amount and the total amount of benefits payable with respect to the benefit year. If the claim is determined to be valid, the examiner shall send a notice to the last employing unit who shall respond within 10 days by providing the examiner all requested information including all information required for a decision under K.S.A. 44-706, and amendments thereto. The information may be submitted by the employing unit in person at an employment office of the secretary or by mail, by telefacsimile machine or by electronic mail. If the required information is not submitted or postmarked within a response time limit of 10 days after the examiner's notice was sent, the employing unit shall be deemed to have waived its standing as a party to the proceedings arising from the claim and shall be barred from protesting any subsequent decisions about the claim by the secretary, a referee, the employment security board of review or any court, except that the employing unit's response time limit may be waived or extended by the examiner or upon appeal, if timely response was impossible due to excusable neglect. In any case in which the payment or denial of benefits will be determined by the provisions of K.S.A. 44-706(d), and amendments thereto, the examiner shall promptly transmit the claim to a special examiner designated by the secretary to make a determination on the claim after the investigation as the special examiner deems necessary. The parties shall be promptly notified of the special examiner's decision and any party aggrieved by the decision may appeal to the referee as provided in subsection (c). The claimant and the claimant's most recent employing unit shall be promptly notified of the examiner's or special examiner's decision.

(2) The examiner may for good cause reconsider the examiner's decision and shall promptly notify the claimant and the most recent employing unit of the claimant, that the decision of the examiner is to be reconsidered, except that no reconsideration shall be made after the
termination of the benefit year.

(3) Notwithstanding the provisions of any other statute, a decision of an examiner or special examiner shall be final unless the claimant or the most recent employing unit of the claimant files an appeal from the decision as provided in subsection (c), except that the time limit for appeal may be waived or extended by the referee or board of review if a timely response was impossible due to excusable neglect. The appeal must be filed within 16 calendar days after the mailing of notice to the last known addresses of the claimant and employing unit or, if notice is not by mail, within 16 calendar days after the delivery of the notice to the parties.

(c) Appeals. Unless the appeal is withdrawn, a referee, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and decision of the examiner or special examiner. The parties shall be duly notified of the referee's decision, together with the reasons for the decision. The decision shall be final, notwithstanding the provisions of any other statute, unless a further appeal to the employment security board of review is filed within 16 calendar days after the mailing of the decision to the parties' last known addresses or, if notice is not by mail, within 16 calendar days after the delivery of the decision, except that the time limit for appeal may be waived or extended by the referee or board of review if a timely response was impossible due to excusable neglect.

(d) Referees. The secretary shall appoint, in accordance with K.S.A. 44-714(c), and amendments thereto, one or more referees to hear and decide disputed claims.

(e) Time, computation and extension. In computing the period of time for an employing unit response or for appeals under this section from the examiner's or the special examiner's determination or from the referee's decision, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday.

(f) Board of review. (1) There is hereby created an employment security board of review, hereinafter referred to as the board, consisting of three members. Each member of the board shall be appointed for a term of four years as provided in this subsection. Not more than two members of the board shall belong to the same political party.

(2) When a vacancy on the employment security board of review occurs, the workers compensation and employment security boards nominating committee established under K.S.A. 44-551, and amendments thereto, shall convene and submit a nominee to the governor for appointment to each vacancy on the employment security board of review,
subject to confirmation by the senate as provided by K.S.A. 75-4315b, and
amendments thereto. The governor shall either: (A) Accept and submit to
the senate for confirmation the person nominated by the nominating
committee; or (B) reject the nomination and request the nominating
committee to nominate another person for that position. Except as
provided by K.S.A. 46-2601, and amendments thereto, no person
appointed to the employment security board of review, whose appointment
is subject to confirmation by the senate, shall exercise any power, duty or
function as a member until confirmed by the senate.

(3) No member of the employment security board of review shall
serve more than two consecutive terms.

(4) Each member of the employment security board shall serve until a
successor has been appointed and confirmed. Any vacancy in the
membership of the board occurring prior to expiration of a term shall be
filled by appointment for the unexpired term in the same manner as
provided for original appointment of the member.

(5) Each member of the employment security board of review shall
be entitled to receive as compensation for the member's services at the rate
of $15,000 per year, together with the member's travel and other necessary
expenses actually incurred in the performance of the member's official
duties in accordance with rules and regulations adopted by the secretary.
Members' compensation and expenses shall be paid from the employment
security administration fund.

(6) The employment security board of review shall organize annually
by the election of a chairperson from among its members. The chairperson
shall serve in that capacity for a term of one year and until a successor is
elected. The board shall meet on the first Monday of each month or on the
call of the chairperson or any two members of the board at the place
designated. The secretary of labor shall appoint an executive secretary of
the board and the executive secretary shall attend the meetings of the
board.

(7) The employment security board of review, on its own motion,
may affirm, modify or set aside any decision of a referee on the basis of
the evidence previously submitted in the case; may direct the taking of
additional evidence; or may permit any of the parties to initiate further
appeal before it. The board shall permit such further appeal by any of the
parties interested in a decision of a referee—which that overrules or
modifies the decision of an examiner. The board may remove to itself the
proceedings on any claim pending before a referee. Any proceedings so
removed to the board shall be heard in accordance with the requirements
of subsection (c). The board shall promptly notify the interested parties of
its findings and decision.

(8) Two members of the employment security board of review shall
constitute a quorum and no action of the board shall be valid unless it has
the concurrence of at least two members. A vacancy on the board shall not
impair the right of a quorum to exercise all the rights and perform all the
duties of the board.

(g) **Procedure.** The manner in which *that* disputed claims are
presented, the reports on claims required from the claimant and from
employers and the conduct of hearings and appeals shall be in accordance
with rules of procedure prescribed by the employment security board of
review for determining the rights of the parties, whether or not such rules
conform to common law or statutory rules of evidence and other technical
rules of procedure. A full and complete record shall be kept of all
proceedings and decisions in connection with a disputed claim. All
testimony at any hearing upon a disputed claim shall be recorded, but need
not be transcribed unless the disputed claim is further appealed. In the
performance of its official duties, the board shall have access to all of the
records *which that* pertain to the disputed claim and are in the custody of
the secretary of labor and shall receive the assistance of the secretary upon
request.

(h) **Witness fees.** Witnesses subpoenaed pursuant to this section shall
be allowed fees and necessary travel expenses at rates fixed by the board.
Such fees and expenses shall be deemed a part of the expense of
administering this act.

(i) **Review of board action.** Any action of the employment security
board of review may not be reconsidered after the mailing of the decision.
An action of the board shall become final unless a petition for review in
accordance with the Kansas judicial review act is filed within 16 calendar
days after the date of the mailing of the decision. If an appeal has not been
filed within 16 calendar days of the date of the mailing of the decision, the
decision becomes final. No bond shall be required for commencing an
action for such review. In addition to those persons having standing
pursuant to K.S.A. 77-611, and amendments thereto, the examiner shall
have standing to obtain judicial review of an action of such board. The
review proceeding, and the questions of law certified, shall be heard in a
summary manner and shall be given precedence over all other civil cases
except cases arising under the workers compensation act.

(j) Any finding of fact or law, judgment, determination, conclusion or
final order made by the employment security board of review or any
examiner, special examiner, referee or other person with authority to make
findings of fact or law pursuant to the employment security law is not
admissible or binding in any separate or subsequent action or proceeding,
between a person and a present or previous employer brought before an
arbitrator, court or judge of the state or the United States, regardless of
whether the prior action was between the same or related parties or
involved the same facts.

(k) In any proceeding or hearing conducted under this section, a party to the proceeding or hearing may appear before a referee or the employment security board of review either personally or by means of a designated representative to present evidence and to state the position of the party. Hearings may be conducted in person, by telephone or other means of electronic communication. The hearing shall be conducted by telephone or other means of electronic communication if none of the parties requests an in-person hearing. If only one party requests an in-person hearing, the referee shall have the discretion of requiring all parties to appear in person or allow the party not requesting an in-person hearing to appear by telephone or other means of electronic communication. The notice of hearing shall include notice to the parties of their right to request an in-person hearing and instructions on how to make the request.

Sec. 15. K.S.A. 2019 Supp. 44-710 is hereby amended to read as follows: 44-710. (a) Payment. Contributions shall accrue and become payable by each contributing employer for each calendar year in which the contributing employer is subject to the employment security law with respect to wages paid for employment. Such contributions shall become due and be paid by each contributing employer to the secretary for the employment security fund in accordance with such rules and regulations as the secretary may adopt and shall not be deducted, in whole or in part, from the wages of individuals in such employer's employ. In the payment of any contributions, a fractional part of $.01 shall be disregarded unless it amounts to $.005 or more, in which case it shall be increased to $.01. Should contributions for any calendar quarter be less than $5, no payment shall be required.

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

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

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

(2) (A) Benefits paid in benefit years established by valid new claims
shall not be charged to the account of a contributing employer or rated
governmental employer who is a base period employer if the examiner finds that claimant was separated from the claimant's most recent employment with such employer under any of the following conditions: (i) Discharged for misconduct or gross misconduct connected with the individual's work; or (ii) leaving work voluntarily without good cause attributable to the claimant's work or the employer; or (iii) discharged from an employer directly impacted by COVID-19 in accordance with the families first coronavirus response act, public law 116-127.

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

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

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

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

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

(G) With respect to weeks of unemployment beginning after December 31, 1977, wages for insured work shall include wages paid for previously uncovered services. For the purposes of this subsection (c)(2) (G), the term "previously uncovered services" means services which that
were not covered employment, at any time during the one-year period ending December 31, 1975, except to the extent that assistance under title II of the federal emergency jobs and unemployment assistance act of 1974 was paid on the basis of such services, and which that:

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

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

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

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

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

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

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

(C) For purposes of this paragraph:

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

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

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

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

(4) The examiner shall notify any base period employer whose account will be charged with benefits paid following the filing of a valid
new claim and a determination by the examiner based on all information relating to the claim contained in the records of the division of employment security. Such notice shall become final and benefits charged to the base period employer's account in accordance with the claim unless within 10 calendar days from the date the notice was sent, the base period employer requests in writing that the examiner reconsider the determination and furnishes any required information in accordance with the secretary's rules and regulations. In a similar manner, a notice of an additional claim followed by the first payment of benefits with respect to the benefit year, filed by an individual during a benefit year after a period in such year during which such individual was employed, shall be given to any base period employer of the individual who has requested such a notice within 10 calendar days from the date the notice of the valid new claim was sent to such base period employer. For purposes of this subsection (c)(3), if the required information is not submitted or postmarked within a response time limit of 10 days after the base period employer notice was sent, the base period employer shall be deemed to have waived its standing as a party to the proceedings arising from the claim and shall be barred from protesting any subsequent decisions about the claim by the secretary, a referee, the board of review or any court, except that the base period employer's response time limit may be waived or extended by the examiner or upon appeal, if timely response was impossible due to excusable neglect. The examiner shall notify the employer of the reconsidered determination, which shall be subject to appeal or further reconsideration, in accordance with the provisions of K.S.A. 44-709, and amendments thereto.

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

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

(e) **Election to become reimbursing employer; payment in lieu of contributions.** (1) Any governmental entity, Indian tribes or tribal units, (subdivisions, subsidiaries or business enterprises wholly owned by such
Indian tribes), for which services are performed as described in subsection (i)(3)(E) of K.S.A. 44-703(i)(3)(E), and amendments thereto, or any nonprofit organization or group of nonprofit organizations described in section 501(c)(3) of the federal internal revenue code of 1986 which is exempt from income tax under section 501(a) of such code, that becomes subject to the employment security law may elect to become a reimbursing employer under this subsection (e)(1) and agree to pay the secretary for the employment security fund an amount equal to the amount of regular benefits and ½ of the extended benefits paid that are attributable to service in the employ of such reimbursing employer, except that each reimbursing governmental employer, Indian tribes or tribal units shall pay an amount equal to the amount of regular benefits and extended benefits paid for weeks of unemployment beginning after December 31, 1978, for governmental employers and December 21, 2000, for Indian tribes or tribal units to individuals for weeks of unemployment which begin during the effective period of such election.

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

(B) Any employer which makes an election to become a reimbursing employer in accordance with subparagraph (A) of this subsection (e)(1) will continue to be liable for payments in lieu of contributions until such employer files with the secretary a written notice terminating its election not later than 30 days prior to the beginning of the calendar year for which such termination shall first be effective.

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

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

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

(2) Reimbursement reports and payments. Payments in lieu of contributions shall be made in accordance with the provisions of paragraph subparagraph (A) of this subsection (e)(2) by all reimbursing employers except the state of Kansas. Each reimbursing employer shall report total wages paid during each calendar quarter by filing quarterly wage reports with the secretary which shall be filed by the last day of the month following the close of each calendar quarter. Wage reports are deemed filed as of the date they are placed in the United States mail.

(A) At the end of each calendar quarter, or at the end of any other period as determined by the secretary, the secretary shall bill each reimbursing employer, except the state of Kansas: (i) An amount to be paid which is equal to the full amount of regular benefits plus ½ of the amount of extended benefits paid during such quarter or other prescribed period that is attributable to service in the employ of such reimbursing employer; and (ii) for weeks of unemployment beginning after December 31, 1978, each reimbursing governmental employer and December 21, 2000, for Indian tribes or tribal units shall be certified an amount to be paid which is equal to the full amount of regular benefits and extended benefits paid during such quarter or other prescribed period that is attributable to service in the employ of such reimbursing governmental employer.

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

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

(D) The amount due specified in any bill from the secretary shall be conclusive on the reimbursing employer, unless, not later than 15 days after the bill was mailed to the last known address of such employer, or was otherwise delivered to such employer, the reimbursing employer files an application for redetermination in accordance with K.S.A. 44-710b, and amendments thereto.
(E) Past due payments of amounts certified by the secretary under this section shall be subject to the same interest, penalties and actions required by K.S.A. 44-717, and amendments thereto. (1) If any nonprofit organization or group of nonprofit organizations described in section 501(c)(3) of the federal internal revenue code of 1986 or governmental reimbursing employer is delinquent in making payments of amounts certified by the secretary under this section, the secretary may terminate such employer's election to make payments in lieu of contributions as of the beginning of the next calendar year and such termination shall be effective for such next calendar year and the calendar year thereafter so that the termination is effective for two complete calendar years. (2) Failure of the Indian tribe or tribal unit to make required payments, including assessment of interest and penalty within 90 days of receipt of the bill will cause the Indian tribe to lose the option to make payments in lieu of contributions as described pursuant to paragraph (e)(1) for the following tax year unless payment in full is received before contribution rates for the next tax year are calculated. (3) Any Indian tribe that loses the option to make payments in lieu of contributions due to late payment or nonpayment, as described in paragraph (2), shall have such option reinstated, if after a period of one year, all contributions have been made on time and no contributions, payments in lieu of contributions for benefits paid, penalties or interest remain outstanding.

(F) Failure of the Indian tribe or any tribal unit thereof to make required payments, including assessments of interest and penalties, after all collection activities deemed necessary by the secretary have been exhausted, will cause services performed by such tribe to not be treated as employment for purposes of subsection (i)(3)(E) of K.S.A. 44-703 (i), and amendments thereto. If an Indian tribe fails to make payments required under this section, including assessments of interest and penalties, within 90 days of a final notice of delinquency, the secretary shall immediately notify the United States internal revenue service and the United States department of labor. The secretary may determine that any Indian tribe that loses coverage pursuant to this paragraph may have services performed on behalf of such tribe again deemed "employment" if all contributions, payments in lieu of contributions, penalties and interest have been paid.

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

(H) The state of Kansas shall make reimbursement payments
quarterly at a fiscal year rate—which that shall be based upon: (i) The
available balance in the state's reimbursing account as of December 31 of
each calendar year; (ii) the historical unemployment experience of all
covered state agencies during prior years; (iii) the estimate of total covered
wages to be paid during the ensuing calendar year; (iv) the applicable
fiscal year rate of the claims processing and auditing fee under K.S.A. 75-
3798, and amendments thereto; and (v) actuarial and other information
furnished to the secretary by the secretary of administration. In accordance
with K.S.A. 75-3798, and amendments thereto, the claims processing and
auditing fees charged to state agencies shall be deducted from the amounts
collected for the reimbursement payments under this paragraph (H) prior
to making the quarterly reimbursement payments for the state of Kansas.
The fiscal year rate shall be expressed as a percentage of covered total
wages and shall be the same for all covered state agencies. The fiscal year
rate for each fiscal year will be certified in writing by the secretary to the
secretary of administration on July 15 of each year and such certified rate
shall become effective on the July 1 immediately following the date of
certification. A detailed listing of benefit charges applicable to the state's
reimbursement account shall be furnished quarterly by the secretary to the
secretary of administration and the total amount of charges deducted from
previous reimbursing payments made by the state. On January 1 of each
year, if it is determined that benefit charges exceed the amount of prior
reimbursement payments, an upward adjustment shall be made therefor in the
fiscal year rate which will to be certified on the ensuing July 15. If total payments exceed benefit charges, all or part of the excess may be refunded, at the discretion of the secretary, from the fund or retained in the fund as part of the payments which that may be required for the next fiscal year.

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

(A) Proportionate allocation (when fewer than all reimbursing base period employers are liable). If benefits paid to an individual are based on wages paid by one or more reimbursing employers and on wages paid by one or more contributing employers or rated governmental employers, the amount of benefits payable by each reimbursing employer shall be an amount which that bears the same ratio to the total benefits paid to the individual as the total base period wages paid to the individual by such employer bears to the total base period wages paid to the individual by all of such individual's base period employers.

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

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

Sec. 16. K.S.A. 2019 Supp. 44-757 is hereby amended to read as 
follows: 44-757. Shared work unemployment compensation program. (a) 
As used in this section:

(1) "Affected unit" means a specified department, shift or other unit 
of two or more employees that is designated by an employer to participate 
in a shared work plan. 
(2) "Fringe benefit" means health insurance, a retirement benefit 
received under a pension plan, a paid vacation day, a paid holiday, sick 
leave, and any other analogous employee benefit that is provided by an 
employer. 
(3) "Fund" has the meaning ascribed thereto by K.S.A. 44-703(k), 
and amendments thereto. 
(4) "Normal weekly hours of work" means the lesser of 40 hours or 
the average obtained by dividing the total number of hours worked per 
week during the preceding twelve-week period by the number 12. 
(5) "Participating employee" means an employee who works a 
reduced number of hours under a shared work plan. 
(6) "Participating employer" means an employer who has a shared 
work plan in effect.
(7) "Secretary" means the secretary of labor or the secretary's designee.

(8) "Shared work benefit" means an unemployment compensation benefit that is payable to an individual in an affected unit because the individual works reduced hours under an approved shared work plan.

(9) "Shared work plan" means a program for reducing unemployment under which employees who are members of an affected unit share the work remaining after a reduction in their normal weekly hours of work.

(10) "Shared work unemployment compensation program" means a program designed to reduce unemployment and stabilize the work force by allowing certain employees to collect unemployment compensation benefits if the employees share the work remaining after a reduction in the total number of hours of work and a corresponding reduction in wages.

(b) The secretary shall establish a voluntary shared work unemployment compensation program as provided by this section. The secretary may adopt rules and regulations and establish procedures necessary to administer the shared work unemployment compensation program.

(c) An employer who wishes to participate in the shared work unemployment compensation program must submit a written shared work plan to the secretary for the secretary's approval. As a condition for approval, a participating employer must agree to furnish the secretary with reports relating to the operation of the shared work plan as requested by the secretary. The employer shall monitor and evaluate the operation of the established shared work plan as requested by the secretary and shall report the findings to the secretary.

(d) The secretary may approve a shared work plan if:

(1) The shared work plan applies to and identifies a specific affected unit;

(2) the employees in the affected unit are identified by name and social security number;

(3) the shared work plan reduces the normal weekly hours of work for an employee, including regular part-time employees, in the affected unit by not less than 20% and not more than 40%;

(4) the shared work plan applies to at least 10% of the employees in the affected unit;

(5) the shared work plan describes the manner in which that the participating employer treats the fringe benefits of each employee in the affected unit and the employer certifies that if the employer provides health benefits and retirement benefits under a defined benefit plan, as defined in 26 U.S.C. § 414(j), or contributions under a defined contribution plan, as defined in 26 U.S.C. § 414(i), to any employee whose workweek is reduced under the program that such benefits will continue to
be provided to employees participating in the shared work compensation
program under the same terms and conditions as though the workweek of
such employee had not been reduced or to the same extent as other
employees not participating in the shared work program;

(6) the employer certifies that the implementation of a shared work
plan and the resulting reduction in work hours is in lieu of layoffs that
would affect at least 10% of the employees in the affected unit and that
would result in an equivalent reduction in work hours;

(7) the employer has filed all reports required to be filed under the
employment security law for all past and current periods and has paid all
contributions, benefit cost payments, or if a reimbursing employer has
made all payments in lieu of contributions due for all past and current
periods;

(8) (A) a contributing employer must be eligible for a rate
computation under K.S.A. 44-710a(a)(2), and amendments thereto, and is
not a negative account employer as defined by K.S.A. 44-710a(d), and
amendments thereto and the contributing employer, as determined by the
secretary, does not adversely impact the state's eligibility under section
2108 of the federal CARES act, public law 116-136; (B) a rated
governmental employer must be eligible for a rate computation under
K.S.A. 44-710d(g), and amendments thereto;

(9) eligible employees may participate, as appropriate, in training,
including without limitation, employer-sponsored training or worker
training funded under the workforce investment act of 1998, to enhance
job skills if such program has been approved by the state of Kansas;

(10) the employer includes a plan for giving advance notice, where
feasible, to an employee whose workweek is to be reduced together with
an estimate of the number of layoffs that would have occurred absent the
ability to participate in shared work compensation and such other
information as the secretary of labor determines is appropriate; and

(11) the terms of the employer's written plan and implementation are
consistent with employer obligations under applicable federal and Kansas
laws.

(e) If any of the employees who participate in a shared work plan
under this section are covered by a collective bargaining agreement, the
shared work plan must be approved in writing by the collective bargaining
agent.

(f) A shared work plan may not be implemented to subsidize seasonal
employers during the off-season.

(g) The secretary shall approve or deny a shared work plan no later
than the 30th day after the day the shared work plan is received by the
secretary. The secretary shall approve or deny a shared work plan in
writing. If the secretary denies a shared work plan, the secretary shall
notify the employer of the reasons for the denial.

(h) A shared work plan is effective on the date it is approved by the secretary, except for good cause a shared work plan may be effective at any time within a period of 14 days prior to the date such plan is approved by the secretary. The shared work plan expires on the last day of the 12th full calendar month after the effective date of the shared work plan.

(i) An employer may modify a shared work plan created under this section to meet changed conditions if the modification conforms to the basic provisions of the shared work plan as approved by the secretary. The employer must report the changes made to the shared work plan in writing to the secretary before implementing the changes. If the original shared work plan is substantially modified, the secretary shall reevaluate the shared work plan and may approve the modified shared work plan if it meets the requirements for approval under subsection (d). The approval of a modified shared work plan does not affect the expiration date originally set for that shared work plan. If substantial modifications cause the shared work plan to fail to meet the requirements for approval, the secretary shall deny approval to the modifications as provided by subsection (g).

(j) Notwithstanding any other provisions of the employment security law, an individual is unemployed and is eligible for shared work benefits in any week in which the individual, as an employee in an affected unit, works for less than the individual's normal weekly hours of work in accordance with an approved shared work plan in effect for that week. The secretary may not deny shared work benefits for any week to an otherwise eligible individual by reason of the application of any provision of the employment security law that relates to availability for work, active search for work or refusal to apply for or accept work with an employer other than the participating employer.

(k) An individual is eligible to receive shared work benefits with respect to any week in which the secretary finds that:

(1) The individual is employed as a member of an affected unit subject to a shared work plan that was approved before the week in question and is in effect for that week;

(2) the individual is able to work and is available for additional hours of work or full-time work with the participating employer;

(3) the individual's normal weekly hours of work have been reduced by at least 20% but not more than 40%, with a corresponding reduction in wages; and

(4) the individual's normal weekly hours of work and wages have been reduced as described in subsection (k)(3) for a waiting period of one week which occurs within the period the shared work plan is in effect, which period includes the week for which the individual is claiming shared work benefits.
(l) The secretary shall pay an individual who is eligible for shared work benefits under this section a weekly shared work benefit amount equal to the individual's regular weekly benefit amount for a period of total unemployment multiplied by the nearest full percentage of reduction of the individual's hours as set forth in the employer's shared work plan. If the shared benefit amount is not a multiple of $1, the secretary shall reduce the amount to the next lowest multiple of $1. All shared work benefits under this section shall be payable from the fund.

(m) An individual may not receive shared work benefits and regular unemployment compensation benefits in an amount that exceeds the maximum total amount of benefits payable to that individual in a benefit year as provided by K.S.A. 44-704(g), and amendments thereto.

(n) An individual who has received all of the shared work benefits and regular unemployment compensation benefits available in a benefit year is an exhaustee under K.S.A. 44-704a and 44-704b, and amendments thereto, and is entitled to receive extended benefits under such statutes if the individual is otherwise eligible under such statutes.

(o) The secretary may terminate a shared work plan for good cause if the secretary determines that the shared work plan is not being executed according to the terms and intent of the shared work unemployment compensation program.

(p) Notwithstanding any other provisions of this section, an individual shall not be eligible to receive shared work benefits for more than 26 calendar weeks during the 12-month period of the shared work plan, except that two weeks of additional benefits shall be payable to claimants who exhaust regular benefits and any benefits under any other federal or state extended benefits program during the period July 1, 2003 through June 30, 2004. No week shall be counted as a week for which an individual is eligible for shared work benefits for the purposes of this section unless the week occurs within the 12-month period of the shared work plan.

(q) No shared work benefit payment shall be made under any shared work plan or this section for any week which that commencement before April 1, 1989.

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

Sec. 17. K.S.A. 48-923 is hereby amended to read as follows: 48-923. Nothing in the emergency management act shall be construed to:

(a) Interfere with the course or conduct of a labor dispute, except that actions otherwise authorized by this act may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety;

(b) interfere with dissemination of news or comment on public affairs; but any communications facility or organization, including but not
limited to radio and television stations, wire services and newspapers, may
be required by the governor to transmit or print public service messages,
information or instructions in connection with a declared state of disaster
emergency;
(c) authorize the governor or any other state officer or employee to
order the closure or cessation of any business or commercial activity in
response to any or all conditions necessitating the declaration of any state
of disaster emergency, except the governor or other state officer or
employee may order such closure or cessation for a total period of time
not to exceed 15 days during any declared state of disaster emergency;
(d) affect, other than during a declared state of disaster emergency,
the jurisdiction or responsibilities of police forces, fire fighting forces,
units of the armed forces of the United States, or of any personnel thereof,
when on active duty; but the state disaster emergency plan and local and
interjurisdictional disaster emergency plans shall place reliance upon such
forces which are available for performance of functions related to a
declared state of disaster emergency; or
(e) limit, modify or abridge the authority of the governor to
proclaim martial law or exercise any other powers vested in the governor
under the constitution, statutes or common law of this state independent of,
or in conjunction with, any provisions of this act.
Sec. 18. K.S.A. 2019 Supp. 48-925 is hereby amended to read as
follows: 48-925. (a) During any state of disaster emergency declared under
K.S.A. 48-924, and amendments thereto, the governor shall be
commander-in-chief of the organized and unorganized militia and of all
other forces available for emergency duty. To the greatest extent
practicable, the governor shall delegate or assign command authority by
prior arrangement, embodied in appropriate executive orders or in rules
and regulations of the adjutant general, but nothing herein shall restrict the
authority of the governor to do so by orders issued at the time of a disaster.
(b) Under the provisions of this act and for the implementation
thereof, the governor may issue orders in conformity with the constitution
and the bill of rights of the state of Kansas and proclamations which shall have the force and effect of law during the period of a state of
disaster emergency declared under subsection (b) of K.S.A. 48-924(b), and
amendments thereto, and which orders and proclamations shall be
null and void thereafter unless ratified by concurrent resolution of the
legislature. Such orders and proclamations may be revoked at any time by
concurrent resolution of the legislature.
(c) During a state of disaster emergency declared under K.S.A. 48-
924, and amendments thereto, and in addition to any other powers
conferred upon the governor by law, the governor may:
(1) Suspend the provisions of any regulatory statute prescribing the
procedures for conduct of state business, or the orders or rules and regulations of any state agency which implements such statute, if strict compliance with the provisions of such statute, order or rule and regulation would prevent, hinder or delay in any way necessary action in coping with the disaster;

(2) utilize all available resources of the state government and of each political subdivision as reasonably necessary to cope with the disaster;

(3) transfer the supervision, personnel or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency management activities;

(4) subject to any applicable requirements for compensation under K.S.A. 48-933, and amendments thereto, commandeer or utilize any private property if the governor finds such action necessary to cope with the disaster;

(5) direct and compel the evacuation of all or part of the population from any area of the state stricken or threatened by a disaster, if the governor deems this action necessary for the preservation of life or other disaster mitigation, response or recovery;

(6) prescribe routes, modes of transportation and destinations in connection with such evacuation;

(7) control ingress and egress of persons and animals to and from a disaster area, the movement of persons and animals within the area and the occupancy by persons and animals of premises therein;

(8) suspend or limit the sale, dispensing or transportation of alcoholic beverages, explosives and combustibles;

(9) make provision for the availability and use of temporary emergency housing;

(10) require and direct the cooperation and assistance of state and local governmental agencies and officials, subject to the provisions of section 6, and amendments thereto; and

(11) perform and exercise such other administrative functions, powers and duties in conformity with the constitution and the bill of rights of the state of Kansas as are necessary to promote and secure the safety and protection of the civilian population.

(d) The governor shall not have the power or authority to temporarily or permanently seize, or authorize seizure of, any ammunition or to suspend or limit the sale, dispensing or transportation of firearms or ammunition pursuant to subsection (c) or any other executive authority. The governor shall exercise the powers conferred by subsection (c) by issuance of orders under subsection (b). The adjutant general, subject to the direction of the governor, shall administer such orders.

Sec. 19. K.S.A. 48-939 is hereby amended to read as follows: 48-939.

(a) The knowing and willful violation of any provision of this act or any
rule and regulation adopted by the adjutant general under this act or any
lawful order or proclamation issued under authority of this act whether
pursuant to a proclamation declaring a state of disaster emergency under
K.S.A. 48-924, and amendments thereto, or a declaration of a state of local
disaster emergency under K.S.A. 48-932, and amendments thereto, shall
constitute a class A misdemeanor and any person convicted of such
violation shall be punished as provided by law therefor.

(b) Prior to February 1, 2021, each complaint alleging a violation of
this section shall be brought or maintained by a county or district attorney
and the attorney general or by the attorney general.

Sec. 20. K.S.A. 65-468 is hereby amended to read as follows: 65-468.
As used in K.S.A. 65-468 through 65-474, inclusive, and amendments
thereto:

(a) "Health care Healthcare provider" means any person licensed or
otherwise authorized by law to provide health care services in this state or
a professional corporation organized pursuant to the professional
corporation law of Kansas by persons who are authorized by law to form
such corporation and who are health care providers as defined by this
subsection, or an officer, employee or agent thereof, acting in the course
and scope of employment or agency.

(b) "Member" means any hospital, emergency medical service, local
health department, home health agency, adult care home, medical clinic,
mental health center or clinic or nonemergency transportation system.

(c) "Mid-level practitioner" means a physician assistant or advanced
practice registered nurse who has entered into a written protocol with a
rural health network physician.

(d) "Physician" means a person licensed to practice medicine and
surgery.

(e) "Rural health network" means an alliance of members, including
at least one critical access hospital and at least one other hospital— which,
that has developed a comprehensive plan submitted to and approved by the
secretary of health and environment regarding: Patient referral and
transfer; the provision of emergency and nonemergency transportation
among members; the development of a network-wide emergency services
plan; and the development of a plan for sharing patient information and
services between hospital members concerning medical staff credentialing,
risk management, quality assurance and peer review.

(f)(1) "Critical access hospital" means a member of a rural health
network which that: Makes available twenty-four hour 24-hour emergency
care services; provides not more than 25 acute care inpatient beds or in the
case of a facility with an approved swing-bed agreement a combined total
of extended care and acute care beds that does not exceed 25 beds;
provides acute inpatient care for a period that does not exceed, on an
annual average basis, 96 hours per patient; and provides nursing services
under the direction of a licensed professional nurse and continuous
licensed professional nursing services for not less than 24 hours of every
day when any bed is occupied or the facility is open to provide services for
patients unless an exemption is granted by the licensing agency pursuant to
rules and regulations. The critical access hospital may provide any services
otherwise required to be provided by a full-time, on-site dietician,
pharmacist, laboratory technician, medical technologist and radiological
technologist on a part-time, off-site basis under written agreements or
arrangements with one or more providers or suppliers recognized under
medicare. The critical access hospital may provide inpatient services by a
physician assistant, advanced practice registered nurse or a clinical nurse
specialist subject to the oversight of a physician who need not be present
in the facility. In addition to the facility's 25 acute beds or swing beds, or
both, the critical access hospital may have a psychiatric unit or a
rehabilitation unit, or both. Each unit shall not exceed 10 beds and neither
unit will shall count toward the 25-bed limit, nor will these units or be
subject to the average 96-hour length of stay restriction.

(2) Notwithstanding the provisions of paragraph (1), prior to June
30, 2021, to the extent that a critical access hospital determines it is
necessary to treat COVID-19 patients or to separate COVID-19 patients
and non-COVID-19 patients, such critical access hospital shall not be
limited to 25 beds or; in the case of a facility with an approved swing bed
agreement, to a combined total of 25 extended care and acute care beds,
and shall not be limited to providing acute inpatient care for a period of
time that does not exceed, on an annual average basis, 96 hours per
patient.

(g) "Hospital" means a hospital other than a critical access hospital
which has entered into a written agreement with at least one critical
access hospital to form a rural health network and to provide medical or
administrative supporting services within the limit of the hospital's
capabilities.

44-702, 44-705, as amended by section 2 of 2020 Senate Bill No. 27, 44-
709, 44-710, 44-757 and 48-925 are hereby repealed.

Sec. 22. This act shall take effect and be in force from and after its
publication in the Kansas register.