AN ACT concerning employment security; creating the unemployment compensation modernization and improvement council; providing for development of a new unemployment insurance information technology system; claimant tax information; website publication of trust fund data; maximum benefit period; charging of employer accounts for benefits paid; employer contribution rate determination and schedules; abolishing the employment security interest assessment fund; crediting employer accounts for fraudulent or erroneous payments; transferring moneys from the state general fund to the unemployment insurance trust fund for improper benefit payments; services performed by petroleum landmen; lessor employment unit employee leasing restrictions; relating to other unemployment trust fund provisions; shared work compensation program; amending K.S.A. 44-758 and K.S.A. 2020 Supp. 44-703, 44-704, 44-710, 44-710a, 44-710b and 44-757 and repealing the existing sections.

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

New Section 1. (a) (1) There is hereby created the unemployment compensation modernization and improvement council. The council shall consist of 11 members appointed as follows:

(A) Two members who, on account of their vocation, employment or affiliations, may be classed as representative of employers, to be selected by the workers compensation and employment security boards nominating committee established under K.S.A. 44-551, and amendments thereto, and appointed by the governor;

(B) two members who, on account of their vocation, employment or affiliation, may be classed as representative of employees, to be selected by the workers compensation and employment security boards nominating committee and appointed by the governor;

(C) the chairpersons of the standing committees of the senate and the house of representatives to which legislation pertaining to the employment security law is customarily referred, appointed by the president of the senate and the speaker of the house of representatives, respectively;

(D) two members of the senate appointed by the president of the senate, one of whom is a member of the majority party and one of whom is a member of the minority party;
The scope of the council's examinations and recommendations shall include, but not be limited to, the following:

1. The technological infrastructure used to file and process claims and pay benefits and the experience of individuals and employers participating in the process;
2. System improvements or upgrades that will maximize responsiveness for individuals and employers;
3. Methods for information and data sharing across agency systems related to unemployment compensation to maximize efficiency;
4. System improvements or upgrades relating to system integrity by reporting vulnerabilities and recommended system enhancements to include identity verification and protection, social security administration cross-match, systematic alien verification for entitlement, incarceration cross-matches, interstate connection network, internet protocol address and data mining and analytics to detect and prevent fraud. Such data mining and analytics shall include current and future recommendations by the United States department of labor and the national association of state workforce agencies, including suspicious actor repository, suspicious email domains, foreign IP addresses, multi-state cross-match, identity verification, fraud alert system, and other assets provided by the unemployment insurance integrity center; and
5. Methods for synergizing user experience across multiple programs administered or supervised by the secretary of labor.

The council shall conduct an audit that shall examine the effects on the department of labor and the unemployment insurance system of fraudulent claims and improper payments during the period of March 15, 2020 through December 31, 2022, and the response by the department of labor to such fraudulent claims and improper payments during that period. The council shall select an independent firm to conduct the audit. The auditor shall have access to all confidential documents. The scope of the audit shall include, but not be limited to, the amounts and nature of improper payments and fraudulent claims, fraud processes and methods and the possibility of recovery of any improper payments. The audit shall also include, but not be limited to, an evaluation which provides likelihood of a data breach being a contributing factor to any fraudulent payments, improper network architecture allowing a potential breach to have occurred, and a timeline of relevant events. The independent firm shall make a preliminary report to the council by May 1, 2022 and a final report by September 1, 2022, that shall be made publicly available by the council. The preliminary report should include, but not be limited to, an evaluation of systems with access to the payment and processing of claims, forensic endpoint images related to the claims, and the external perimeter housing the claims systems, as well as an evaluation of the Department of Labor's response to claims. Any confidential information shall be redacted and shall not be made public. The audit shall be paid for by the state, subject to appropriations, therefore.

The council may hold an executive session that shall not be public under the Kansas open meetings act for the purpose of hearing and discussing any confidential portions of the audit. The council shall follow the provisions of K.S.A. 75-4319 when conducting such an executive session.

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly
assigned by the chairperson or the secretary of labor.

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

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

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

(h) The secretary of labor shall notify the chairperson of the council
of any unauthorized third-party access to or acquisition of records
maintained by the secretary that are necessary for the administration of the
employment security law. The secretary shall provide the notice not more
than five days after the secretary discovers or is notified of the
unauthorized access or acquisition.

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

(j) (1) The secretary of labor shall, with the assistance of the council:
(A) Develop a written strategic staffing plan to be implemented
whenever there is a substantial increase or a substantial decrease in the
number of inquiries or claims for benefits and review the plan in
accordance with the provisions of subsection (k);
(B) create, in a single place on the website maintained by the
secretary, a list of all points of contact by which an applicant for or a
recipient of unemployment compensation benefits or an employer may
submit inquiries related to the employment security law; and
(C) adopt rules and regulations creating a uniform process through
which an applicant for or a recipient of benefits under the employment
security law or an employer may submit a complaint related to the service
that informs the claimant of the federal and state tax consequences of any
unemployment compensation benefits that the claimant may receive. This
information shall include an explanation regarding the department of labor
income tax withholding agreement form designated as K-BEN 233 or a
successor form, tax withholding elections and the tax withholding process
and estimated weekly and maximum claim year federal and state tax
withholding amounts.

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

New Sec. 4. (a) The secretary of labor shall post trust fund
computations and data as required by subsection (b) on a publicly
accessible website maintained by the secretary as follows:

(1) The secretary shall post and maintain the computations and data
for each of the most recent 20 fiscal years within 90 days of the effective
date of this act; and

(2) for the fiscal year beginning on July 1, 2021, and each fiscal year
thereafter, the secretary shall post the trust fund computations and data for
the fiscal year to the website within 90 days of such fiscal year's closing
date.

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

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

(A) The rate group;
(B) the reserve ratio lower limit;
(C) the number of accounts;
(D) the taxable wages by fiscal year;
(E) a summary of active positive eligible accounts with the number of
accounts and fiscal year taxable wages;
(F) a summary of active ineligible accounts with the number of
accounts and fiscal year taxable wages;
(G) a summary of active negative accounts with the number of
accounts and fiscal year taxable wages; and
(E) a summary of terminated and inactive accounts with the number
of accounts and fiscal year taxable wages; and
(2) an average high cost benefit rate summary, including:

(A) The average high cost benefit rate currently in effect; and
(B) the benefit cost rate for the fiscal years used to calculate the
average high benefit cost rate.

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

Sec. 5. K.S.A. 2020 Supp. 44-703 is hereby amended to read as
follows: 44-703. As used in this act, unless the context clearly requires