HOUSE BILL No. 2195

By Committee on K-12 Education Budget

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

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

Section 1. K.S.A. 2020 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 that 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 that the unavailability of federal appropriations and grants for such purpose occurs or 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 that each contributing employer becomes liable to pay under this paragraph (2) over the amount of contributions 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.

(3) 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; (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 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 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 that:

(i) Are agricultural labor as defined in K.S.A. 44-703(w), and amendments thereto, or domestic service as defined in 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 K.S.A. 44-703(i)(3)(E), and amendments thereto; or
(iii) are services performed by an employee of a nonprofit educational institution 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.

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

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

(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 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 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 that 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 that 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 when a determination of subjectivity to the
employment security law is issued, whichever occurs later.

(B) Any employer that makes an election to become a reimbursing
employer in accordance with subparagraph (A) 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) that 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 that the secretary may make of its status as an employer and of the effective date of any election that 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 subparagraph (A) 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 that 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 that 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, December 21, 2000, for Indian tribes or tribal units shall be certified an amount to be paid that 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 subparagraph (A) 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 subparagraph (D).

(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 K.S.A. 44-703(i)(3)(E), 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 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.
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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 reimbursing 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 reimbursing payments, an upward adjustment shall be made therefor in the fiscal year rate 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 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 ½ 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 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 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 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) paragraph. 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) paragraph, 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) paragraph by members of the group and the time and manner of such payments.

Sec. 2. K.S.A. 2020 Supp. 44-710b is hereby amended to read as follows: 44-710b. (a) By the secretary of labor. The secretary of labor shall promptly notify each contributing employer of its rate of contributions, each rated governmental employer of its benefit cost rate and each
reimbursing employer of its benefit liability as determined for any calendar year pursuant to K.S.A. 44-710 and 44-710a, and amendments thereto, on or before November 30 of the calendar year immediately preceding the calendar year in which such rate takes effect. Such determination shall become conclusive and binding upon the employer unless, within 15 days after the mailing of notice thereof to the employer's last known address or in the absence of mailing, within 15 days after the delivery of such notice, the employer files an application for review and redetermination, setting forth the reasons therefor. If the secretary of labor grants such review, the employer shall be promptly notified thereof and shall be granted an opportunity for a fair hearing, but no employer shall have standing, in any proceeding involving the employer's rate of contributions or benefit liability, to contest the chargeability to the employer's account of any benefits paid in accordance with a determination, redetermination or decision pursuant to subsection (c) of K.S.A. 44-710(c), and amendments thereto, except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for the employer and only in the event that the employer was not a party to such determination, redetermination or decision or to any other proceedings under this act in which the character of such services was determined. Any such hearing conducted pursuant to this section shall be heard in the county where the contributing employer maintains its principle place of business. The hearing officer shall render a decision concerning all matters at issue in the hearing within 90 days.

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

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

(B) Reimbursing employers shall be refunded immediately, without
necessity of a request or a hearing, for reimbursements made to the state for any claims or benefits paid on or after March 15, 2020, that are or have been reported to the secretary as fraudulent. Amounts refunded shall become due, subject to appeal as provided by the employment security law, upon a determination by the secretary, as provided by subparagraph (A), that the benefits were paid properly and not by fraud or in error.

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

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

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

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

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

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

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

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

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

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