

**Senate Substitute for HOUSE BILL No. 2396**

By Committee on Judiciary

5-21

1 AN ACT concerning governmental response to the 2020 COVID-19  
2 pandemic in Kansas; providing certain relief related to health, welfare,  
3 property and economic security during this public health emergency;  
4 making and concerning appropriations for the fiscal years ending June  
5 30, 2020, and June 30, 2021, for the legislative coordinating council  
6 and the governor's department; relating to the state of disaster  
7 emergency; powers of the governor and executive officers; providing  
8 certain limitations and restrictions; business and commercial activities,  
9 local health officials; violations of the emergency management act;  
10 requiring county health officers to share certain information with first  
11 responder agencies and 911 call centers; imposing requirements on the  
12 Kansas department for aging and disability services related to infection  
13 prevention and control practices and recommendations, infection  
14 control inspections and providing personal protective equipment;  
15 authorizing the expanded use of telemedicine in response to the  
16 COVID-19 public health emergency; imposing requirements related  
17 thereto; suspending certain requirements related to medical care  
18 facilities; expiring such provisions; relating to changes in the  
19 employment security law in response to the COVID-19 public health  
20 emergency; eligibility for benefits; contribution rates; federal  
21 reimbursement; employer notifications; shared work plan eligibility;  
22 amending K.S.A. 48-923, 48-939 and 65-468 and K.S.A. 2019 Supp.  
23 44-702, 44-705, as amended by section 2 of 2020 Senate Bill No. 27,  
24 44-709, 44-710, 44-757 and 48-925 and repealing the existing sections.

25  
26 *Be it enacted by the Legislature of the State of Kansas:*

27 Section 1.

28 LEGISLATIVE COORDINATING COUNCIL

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

34 Coronavirus relief fund.....No limit

35 *Provided*, That, all moneys in the coronavirus relief fund shall be used for  
36 the purposes of relief for the effects of coronavirus in the state of Kansas

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

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

31 Sec. 2.

32 LEGISLATIVE COORDINATING COUNCIL

33 (a) There is appropriated for the above agency from the following  
 34 special revenue fund or funds for the fiscal year ending June 30, 2021, all  
 35 moneys now or hereafter lawfully credited to and available in such fund or  
 36 funds, except that expenditures other than refunds authorized by law shall  
 37 not exceed the following:

38 Coronavirus relief fund.....No limit  
 39 *Provided*, That, all moneys in the coronavirus relief fund shall be used for  
 40 the purposes of relief for the effects of coronavirus in the state of Kansas  
 41 as set forth in such federal grant or receipt: *Provided further*, That, the  
 42 director of the budget shall submit each request of a state agency for  
 43 expenditures from the coronavirus relief fund during the fiscal year ending

1 June 30, 2021, to the legislative budget committee: *And provided further*,  
2 That, the legislative budget committee shall meet and review each such  
3 request of the director of the budget and shall report such committee's  
4 recommendation on each such request to the legislative coordinating  
5 council: *And provided further*, That, after receiving recommendations from  
6 the legislative budget committee, expenditures may be made from the  
7 coronavirus relief fund upon an affirmative vote of the legislative  
8 coordinating council in accordance with K.S.A. 46-1202, and amendments  
9 thereto, except that such disbursements and expenditures may be approved  
10 while the legislature is in session: *And provided further*, That, the  
11 legislative coordinating council is hereby authorized to approve the  
12 disbursement and expenditure of moneys from the coronavirus relief fund  
13 for such purposes: *And provided further*, That, upon receipt of such  
14 approval by the legislative coordinating council, the director of accounts  
15 and reports is hereby authorized to transfer such moneys from the  
16 coronavirus relief fund to a newly created special revenue fund of the  
17 requesting state agency: *And provided further*, That, there is appropriated  
18 for such requesting state agency from the newly created special revenue  
19 fund or funds for the fiscal year ending June 30, 2021, all moneys now or  
20 hereafter lawfully credited to and available in such fund or funds.

21 Sec. 3. (a) On the effective date of this act, notwithstanding the  
22 provisions of section 189 of chapter 68 of the 2019 Session Laws of  
23 Kansas for fiscal year 2020 and section 179 of 2020 Senate Bill No. 66 for  
24 fiscal year 2021, for fiscal year 2020 and fiscal year 2021 concerning each  
25 federal grant or other federal receipt that is received by a state agency  
26 named in chapter 68 of the 2019 Session Laws of Kansas or 2020 Senate  
27 Bill No. 66, that concerns moneys from the federal government for aid to  
28 the state of Kansas for coronavirus relief as appropriated in section 601(c)  
29 (2)(A) of the federal CARES act, public law 116-136, and that is not  
30 otherwise appropriated to that state agency for fiscal year 2020 or 2021 by  
31 chapter 68 of the 2019 Session Laws of Kansas, 2020 Senate Bill No. 66  
32 or this appropriation act of the 2020 regular session of the legislature, such  
33 federal grant or other federal receipt is hereby appropriated for fiscal year  
34 2020 and fiscal year 2021 to the coronavirus relief fund of the legislative  
35 coordinating council for the purpose set forth in such federal grant or  
36 receipt.

37 (b) On the effective date of this act, the provisions of section 189 of  
38 chapter 68 of the 2019 Session Laws of Kansas for fiscal year 2020 and  
39 section 179 of 2020 Senate Bill No. 66 for fiscal year 2021, for fiscal year  
40 2020 and fiscal year 2021 concerning federal grants or other federal  
41 receipt that are received by a state agency named in chapter 68 of the 2019  
42 Session Laws of Kansas or 2020 Senate Bill No. 66 and that concerns  
43 moneys from the federal government for aid to the state of Kansas for

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

1 all approved moneys now or hereafter lawfully credited to and available in  
2 such fund or funds during fiscal year 2020 and fiscal year 2021.

3 (b) On the effective date of this act, the provisions of section 189 of  
4 chapter 68 of the 2019 Session Laws of Kansas for fiscal year 2020 and  
5 section 179 of 2020 Senate Bill No. 66, for fiscal year 2020 and fiscal year  
6 2021 concerning federal grants or other federal receipt that are received by  
7 a state agency named in chapter 68 of the 2019 Session Laws of Kansas or  
8 2020 Senate Bill No. 66 and that concerns moneys from the federal  
9 government for aid to the state of Kansas for coronavirus relief as  
10 appropriated in the federal CARES act, public law 116-136, the  
11 coronavirus preparedness and response supplemental appropriations act,  
12 2020, public law 116-123, the federal families first coronavirus response  
13 act, public law 116-127, the federal paycheck protection program and  
14 health care enhancement act, public law 116-139, and any other federal  
15 law that appropriates moneys to the state for aid for coronavirus relief,  
16 shall be null and void and shall have no force and effect.

17 New Sec. 5. (a) The state of disaster emergency that was declared by  
18 the governor pursuant to K.S.A. 48-924, and amendments thereto, by  
19 proclamation on March 12, 2020, which was ratified and continued in  
20 force and effect through May 1, 2020, by 2020 House Concurrent  
21 Resolution No. 5025, adopted by the house of representatives with the  
22 senate concurring therein on March 19, 2020, and declared by  
23 proclamation on April 30, 2020, which was extended and continued in  
24 existence by the state finance council on May 13, 2020, for an additional  
25 12 days through May 26, 2020, for all 105 counties of Kansas, as a result  
26 of the COVID-19 health emergency, is hereby ratified and continued in  
27 existence from March 12, 2020, through May 26, 2020.

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

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

40 (b) Any order issued that violates or exceeds the restrictions provided  
41 in subsection (a) shall not have the force and effect of law during the  
42 period of a state of disaster emergency declared under K.S.A. 48-924(b),  
43 and amendments thereto, and any such order shall be null and void.

1 (c) If the governor or any other executive officer or employee of the  
2 state of Kansas orders the closure or cessation of any business or  
3 commercial activity during any state of disaster emergency declared under  
4 K.S.A. 48-924, and amendments thereto, upon the expiration of any such  
5 order, the authority to determine whether any such business or commercial  
6 activity should be prohibited from reopening and resuming business or  
7 commercial activities shall be vested in local health officials pursuant to  
8 applicable provisions of chapter 65 of the Kansas Statutes Annotated, and  
9 amendments thereto. In such event, any order of local health officials shall  
10 be based on local needs and conditions and shall be subject to review and  
11 approval, disapproval or modification by the applicable board of county  
12 commissioners within three days.

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

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

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

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

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

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

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

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

42 (b) provide the necessary personal protective equipment, sanitizing  
43 supplies and testing kits appropriate to the needs of each facility on an

1 ongoing basis, based upon:

2 (1) The current number of residents;

3 (2) the current number of full-time and part-time staff members;

4 (3) the number of residents and staff who have tested positive for  
5 COVID-19 in the last 14 days;

6 (4) the ability to separate COVID-19 residents from non-COVID-19  
7 residents; and

8 (5) any other factors deemed relevant by the secretary; and

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

13 New Sec. 9. (a) A physician may issue a prescription for or order the  
14 administration of medication, including a controlled substance, for a  
15 patient without conducting an in-person examination of such patient.

16 (b) A physician under quarantine, including self-imposed quarantine,  
17 may practice telemedicine.

18 (c) (1) A physician holding a license issued by the applicable  
19 licensing agency of another state may practice telemedicine to treat  
20 patients located in the state of Kansas, if such out-of-state physician:

21 (A) Advises the state board of healing arts of such practice in writing  
22 and in a manner determined by the state board of healing arts; and

23 (B) holds an unrestricted license to practice medicine and surgery in  
24 the other state and is not the subject of any investigation or disciplinary  
25 action by the applicable licensing agency.

26 (2) The state board of healing arts may extend the provisions of this  
27 subsection to other healthcare professionals licensed and regulated by the  
28 board as deemed necessary by the board to address the impacts of COVID-  
29 19 and consistent with ensuring patient safety.

30 (d) A physician practicing telemedicine in accordance with this  
31 section shall conduct an appropriate assessment and evaluation of the  
32 patient's current condition and document the appropriate medical  
33 indication for any prescription issued.

34 (e) Nothing in this section shall supersede or otherwise affect the  
35 provisions of K.S.A. 65-4a10, and amendments thereto, or K.S.A. 2019  
36 Supp. 40-2,215, and amendments thereto.

37 (f) As used in this section:

38 (1) "Physician" means a person licensed to practice medicine and  
39 surgery.

40 (2) "Telemedicine" means the delivery of healthcare services by a  
41 healthcare provider while the patient is at a different physical location.

42 (g) This section shall expire 120 calendar days after the expiration or  
43 termination of the state of disaster emergency proclamation issued by the

1 governor in response to the COVID-19 public health emergency, or any  
2 extension thereof.

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

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

11 (b) (1) A hospital may utilize non-hospital space, including off-  
12 campus space, to perform COVID-19 testing, triage, quarantine or patient  
13 care to the extent that such hospital determines is necessary to treat  
14 COVID-19 patients and to separate COVID-19 patients and non-COVID-  
15 19 patients.

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

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

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

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

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

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

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

42 (b) This section shall expire 120 calendar days after the expiration or  
43 termination of the state of disaster emergency proclamation issued by the



1 governor in response to the COVID-19 public health emergency, or any  
2 extension thereof.

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

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

32 (a) The claimant has registered for work at and thereafter continued  
33 to report at an employment office in accordance with rules and regulations  
34 adopted by the secretary, except that, subject to the provisions of K.S.A.  
35 44-704(a), and amendments thereto, the secretary may adopt rules and  
36 regulations that waive or alter either or both of the requirements of this  
37 subsection.

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

40 (c) The claimant is able to perform the duties of such claimant's  
41 customary occupation or the duties of other occupations that the claimant  
42 is reasonably fitted by training or experience, and is available for work, as  
43 demonstrated by the claimant's pursuit of the full course of action most

1 reasonably calculated to result in the claimant's reemployment except that,  
2 notwithstanding any other provisions of this section, an unemployed  
3 claimant otherwise eligible for benefits shall not become ineligible for  
4 benefits: (1) Because of the claimant's enrollment in and satisfactory  
5 pursuit of approved training, including training approved under section  
6 236(a)(1) of the trade act of 1974; ~~or~~ (2) solely because such individual is  
7 seeking only part-time employment if the individual is available for a  
8 number of hours per week that are comparable to the individual's part-time  
9 work experience in the base period; *or* (3) *because a claimant is not*  
10 *actively seeking work: (i) During a state of disaster emergency proclaimed*  
11 *by the governor pursuant to K.S.A. 48-924 and 48-925, and amendments*  
12 *thereto; (ii) in response to the spread of the public health emergency of*  
13 *COVID-19; and (iii) the state's temporary waiver of the work search*  
14 *requirement under the employment security law for such claimant is in*  
15 *compliance with the families first coronavirus response act, public law*  
16 *116-127.*

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

20 (d) (1) Except as provided further, the claimant has been unemployed  
21 for a waiting period of one week or the claimant is unemployed and has  
22 satisfied the requirement for a waiting period of one week under the shared  
23 work unemployment compensation program as provided in K.S.A. 44-  
24 757(k)(4), and amendments thereto, and that period of one week, in either  
25 case, occurs within the benefit year that includes the week for which the  
26 claimant is claiming benefits. No week shall be counted as a week of  
27 unemployment for the purposes of this subsection:

28 (A) If benefits have been paid for such week;

29 (B) if the individual fails to meet with the other eligibility  
30 requirements of this section; or

31 (C) if an individual is seeking unemployment benefits under the  
32 unemployment compensation law of any other state or of the United  
33 States, except that if the appropriate agency of such state or of the United  
34 States finally determines that the claimant is not entitled to unemployment  
35 benefits under such other law, this subparagraph shall not apply.

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

38 (i) New claims by claimants who become unemployed as a result of  
39 an employer terminating business operations within this state, declaring  
40 bankruptcy or initiating a work force reduction pursuant to public law 100-  
41 379, the federal worker adjustment and retraining notification act, 29  
42 U.S.C. §§ 2101 through 2109, as amended; *or*

43 (ii) *new claims filed on or after April 5, 2020, through December 26,*

1 2020, in accordance with the families first coronavirus response act,  
2 public law 116-127 and the federal CARES act, public law 116-136.

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

5 (3) *If the waiting week requirement of paragraph (1) applies*, a  
6 claimant shall become eligible to receive compensation for the waiting  
7 period of one week, pursuant to paragraph (1), upon completion of three  
8 weeks of unemployment consecutive to such waiting period. This  
9 paragraph shall not apply to initial claims effective on and after April 1,  
10 2021.

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

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

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

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

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

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

42 Sec. 14. K.S.A. 2019 Supp. 44-709 is hereby amended to read as  
43 follows: 44-709. (a) *Filing*. Claims for benefits shall be made in

1 accordance with rules and regulations adopted by the secretary. The  
2 secretary shall furnish a copy of such rules and regulations to any  
3 individual requesting them. Each employer shall: (1) Post and maintain  
4 printed statements furnished by the secretary without cost to the employer  
5 in places readily accessible to individuals in the service of the employer;  
6 *and (2) provide any other notification to individuals in the service of the*  
7 *employer as required by the secretary pursuant to the families first*  
8 *coronavirus response act, public law 116-127.*

9 (b) *Determination.* (1) Except as otherwise provided in this  
10 paragraph, a representative designated by the secretary, and hereinafter  
11 referred to as an examiner, shall promptly examine the claim and, on the  
12 basis of the facts found by the examiner, shall determine whether or not  
13 the claim is valid. If the examiner determines that the claim is valid, the  
14 examiner shall determine the first day of the benefit year, the weekly  
15 benefit amount and the total amount of benefits payable with respect to the  
16 benefit year. If the claim is determined to be valid, the examiner shall send  
17 a notice to the last employing unit who shall respond within 10 days by  
18 providing the examiner all requested information including all information  
19 required for a decision under K.S.A. 44-706, and amendments thereto. The  
20 information may be submitted by the employing unit in person at an  
21 employment office of the secretary or by mail, by telefacsimile machine or  
22 by electronic mail. If the required information is not submitted or  
23 postmarked within a response time limit of 10 days after the examiner's  
24 notice was sent, the employing unit shall be deemed to have waived its  
25 standing as a party to the proceedings arising from the claim and shall be  
26 barred from protesting any subsequent decisions about the claim by the  
27 secretary, a referee, the employment security board of review or any court,  
28 except that the employing unit's response time limit may be waived or  
29 extended by the examiner or upon appeal, if timely response was  
30 impossible due to excusable neglect. In any case in which the payment or  
31 denial of benefits will be determined by the provisions of K.S.A. 44-  
32 706(d), and amendments thereto, the examiner shall promptly transmit the  
33 claim to a special examiner designated by the secretary to make a  
34 determination on the claim after the investigation as the special examiner  
35 deems necessary. The parties shall be promptly notified of the special  
36 examiner's decision and any party aggrieved by the decision may appeal to  
37 the referee as provided in subsection (c). The claimant and the claimant's  
38 most recent employing unit shall be promptly notified of the examiner's or  
39 special examiner's decision.

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

1 termination of the benefit year.

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

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

23 (d) *Referees.* The secretary shall appoint, in accordance with K.S.A.  
24 44-714(c), and amendments thereto, one or more referees to hear and  
25 decide disputed claims.

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

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

39 (2) When a vacancy on the employment security board of review  
40 occurs, the workers compensation and employment security boards  
41 nominating committee established under K.S.A. 44-551, and amendments  
42 thereto, shall convene and submit a nominee to the governor for  
43 appointment to each vacancy on the employment security board of review,

1 subject to confirmation by the senate as provided by K.S.A. 75-4315b, and  
2 amendments thereto. The governor shall either: (A) Accept and submit to  
3 the senate for confirmation the person nominated by the nominating  
4 committee; or (B) reject the nomination and request the nominating  
5 committee to nominate another person for that position. Except as  
6 provided by K.S.A. 46-2601, and amendments thereto, no person  
7 appointed to the employment security board of review, whose appointment  
8 is subject to confirmation by the senate, shall exercise any power, duty or  
9 function as a member until confirmed by the senate.

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

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

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

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

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

43 (8) Two members of the employment security board of review shall

1 constitute a quorum and no action of the board shall be valid unless it has  
2 the concurrence of at least two members. A vacancy on the board shall not  
3 impair the right of a quorum to exercise all the rights and perform all the  
4 duties of the board.

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

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

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

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

1 involved the same facts.

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

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

28 (b) *Rates and base of contributions.* (1) Except as provided in  
29 paragraph (2) of this subsection, each contributing employer shall pay  
30 contributions on wages paid by the contributing employer during each  
31 calendar year with respect to employment as provided in K.S.A. 44-710a,  
32 and amendments thereto. Except that, notwithstanding the federal law  
33 requiring the secretary of labor to annually recalculate the contribution  
34 rate, for calendar years 2010, 2011, 2012, 2013 and 2014, the secretary  
35 shall charge each contributing employer in rate groups 1 through 32 the  
36 contribution rate in the 2010 original tax rate computation table, with  
37 contributing employers in rate groups 33 through 51 being capped at a  
38 5.4% contribution rate. *For calendar year 2021, unemployment tax rates*  
39 *for eligible employers shall be limited to the standard rate schedule in*  
40 *K.S.A. 44-710a, and amendments thereto. Therefore, no additional*  
41 *solvency adjustment shall be applied.*

42 (2) (A) If the congress of the United States either amends or repeals  
43 the Wagner-Peyser act, the federal unemployment tax act, the federal



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (C) For purposes of this paragraph:

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

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

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

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

42 (4) The examiner shall notify any base period employer whose  
43 account will be charged with benefits paid following the filing of a valid

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

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

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

41 (e) *Election to become reimbursing employer; payment in lieu of*  
42 *contributions.* (1) Any governmental entity, Indian tribes or tribal units,  
43 (subdivisions, subsidiaries or business enterprises wholly owned by such

1 Indian tribes), for which services are performed as described in ~~subsection~~  
2 ~~(i)(3)(E)~~ of K.S.A. 44-703(i)(3)(E), and amendments thereto, or any  
3 nonprofit organization or group of nonprofit organizations described in  
4 section 501(c)(3) of the federal internal revenue code of 1986 ~~which that~~ is  
5 exempt from income tax under section 501(a) of such code, that becomes  
6 subject to the employment security law may elect to become a reimbursing  
7 employer under this subsection (e)(1) and agree to pay the secretary for the  
8 employment security fund an amount equal to the amount of regular  
9 benefits and  $\frac{1}{2}$  of the extended benefits paid that are attributable to service  
10 in the employ of such reimbursing employer, except that each reimbursing  
11 governmental employer, Indian tribes or tribal units shall pay an amount  
12 equal to the amount of regular benefits and extended benefits paid for  
13 weeks of unemployment beginning after December 31, 1978, for  
14 governmental employers and December 21, 2000, for Indian tribes or  
15 tribal units to individuals for weeks of unemployment ~~which that~~ begin  
16 during the effective period of such election.

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

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

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

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

42 (E) The secretary, in accordance with such rules and regulations as  
43 the secretary may adopt, shall notify each employer identified in

1 subsection (e)(1) of any determination ~~which~~ *that* the secretary may make  
2 of its status as an employer and of the effective date of any election ~~which~~  
3 *that* it makes to become a reimbursing employer and of any termination of  
4 such election. Such determinations shall be subject to reconsideration,  
5 appeal and review in accordance with the provisions of K.S.A. 44-710b,  
6 and amendments thereto.

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

15 (A) At the end of each calendar quarter, or at the end of any other  
16 period as determined by the secretary, the secretary shall bill each  
17 reimbursing employer, except the state of Kansas: (i) An amount to be paid  
18 ~~which~~ *that* is equal to the full amount of regular benefits plus  $\frac{1}{2}$  of the  
19 amount of extended benefits paid during such quarter or other prescribed  
20 period that is attributable to service in the employ of such reimbursing  
21 employer; and (ii) for weeks of unemployment beginning after December  
22 31, 1978, each reimbursing governmental employer and December 21,  
23 2000, for Indian tribes or tribal units shall be certified an amount to be  
24 paid ~~which~~ *that* is equal to the full amount of regular benefits and extended  
25 benefits paid during such quarter or other prescribed period that is  
26 attributable to service in the employ of such reimbursing governmental  
27 employer.

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

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

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

1 (E) Past due payments of amounts certified by the secretary under  
2 this section shall be subject to the same interest, penalties and actions  
3 required by K.S.A. 44-717, and amendments thereto. (1) If any nonprofit  
4 organization or group of nonprofit organizations described in section  
5 501(c)(3) of the federal internal revenue code of 1986 or governmental  
6 reimbursing employer is delinquent in making payments of amounts  
7 certified by the secretary under this section, the secretary may terminate  
8 such employer's election to make payments in lieu of contributions as of  
9 the beginning of the next calendar year and such termination shall be  
10 effective for such next calendar year and the calendar year thereafter so  
11 that the termination is effective for two complete calendar years. (2)  
12 Failure of the Indian tribe or tribal unit to make required payments,  
13 including assessment of interest and penalty within 90 days of receipt of  
14 the bill will cause the Indian tribe to lose the option to make payments in  
15 lieu of contributions as described pursuant to paragraph (e)(1) for the  
16 following tax year unless payment in full is received before contribution  
17 rates for the next tax year are calculated. (3) Any Indian tribe that loses the  
18 option to make payments in lieu of contributions due to late payment or  
19 nonpayment, as described in paragraph (2), shall have such option  
20 reinstated, if after a period of one year, all contributions have been made  
21 on time and no contributions, payments in lieu of contributions for benefits  
22 paid, penalties or interest remain outstanding.

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

37 (G) In the discretion of the secretary, any employer who elects to  
38 become liable for payments in lieu of contributions and any nonprofit  
39 organization or group of nonprofit organizations described in section 501  
40 (c)(3) of the federal internal revenue code of 1986 or governmental  
41 reimbursing employer or Indian tribe or tribal unit who is delinquent in  
42 filing reports or in making payments of amounts certified by the secretary  
43 under this section shall be required within 60 days after the effective date

1 of such election, in the case of an eligible employer so electing, or after the  
2 date of notification to the delinquent employer under this subsection (e)(2)  
3 (G), in the case of a delinquent employer, to execute and file with the  
4 secretary a surety bond, except that the employer may elect, in lieu of a  
5 surety bond, to deposit with the secretary money or securities as approved  
6 by the secretary or to purchase and deliver to an escrow agent a certificate  
7 of deposit to guarantee payment. The amount of the bond, deposit or  
8 escrow agreement required by this subsection (e)(2)(G) shall not exceed  
9 5.4% of the organization's taxable wages paid for employment by the  
10 eligible employer during the four calendar quarters immediately preceding  
11 the effective date of the election or the date of notification, in the case of a  
12 delinquent employer. If the employer did not pay wages in each of such  
13 four calendar quarters, the amount of the bond or deposit shall be as  
14 determined by the secretary. Upon the failure of an employer to comply  
15 with this subsection (e)(2)(G) within the time limits imposed or to  
16 maintain the required bond or deposit, the secretary may terminate the  
17 election of such eligible employer or delinquent employer, as the case may  
18 be, to make payments in lieu of contributions, and such termination shall  
19 be effective for the current and next calendar year.

20 (H) The state of Kansas shall make reimbursement payments  
21 quarterly at a fiscal year rate ~~which~~ that shall be based upon: (i) The  
22 available balance in the state's reimbursing account as of December 31 of  
23 each calendar year; (ii) the historical unemployment experience of all  
24 covered state agencies during prior years; (iii) the estimate of total covered  
25 wages to be paid during the ensuing calendar year; (iv) the applicable  
26 fiscal year rate of the claims processing and auditing fee under K.S.A. 75-  
27 3798, and amendments thereto; and (v) actuarial and other information  
28 furnished to the secretary by the secretary of administration. In accordance  
29 with K.S.A. 75-3798, and amendments thereto, the claims processing and  
30 auditing fees charged to state agencies shall be deducted from the amounts  
31 collected for the reimbursement payments under this paragraph (H) prior  
32 to making the quarterly reimbursement payments for the state of Kansas.  
33 The fiscal year rate shall be expressed as a percentage of covered total  
34 wages and shall be the same for all covered state agencies. The fiscal year  
35 rate for each fiscal year will be certified in writing by the secretary to the  
36 secretary of administration on July 15 of each year and such certified rate  
37 shall become effective on the July 1 immediately following the date of  
38 certification. A detailed listing of benefit charges applicable to the state's  
39 reimbursing account shall be furnished quarterly by the secretary to the  
40 secretary of administration and the total amount of charges deducted from  
41 previous reimbursing payments made by the state. On January 1 of each  
42 year, if it is determined that benefit charges exceed the amount of prior  
43 reimbursing payments, an upward adjustment shall be made therefor in the



1 fiscal year rate ~~which will~~ to be certified on the ensuing July 15. If total  
2 payments exceed benefit charges, all or part of the excess may be  
3 refunded, at the discretion of the secretary, from the fund or retained in the  
4 fund as part of the payments ~~which that~~ may be required for the next fiscal  
5 year.

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

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

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

42 (4) *Group accounts.* Two or more reimbursing employers may file a  
43 joint application to the secretary for the establishment of a group account

1 for the purpose of sharing the cost of benefits paid that are attributable to  
2 service in the employment of such reimbursing employers. Each such  
3 application shall identify and authorize a group representative to act as the  
4 group's agent for the purposes of this subsection (e)(4). Upon approval of  
5 the application, the secretary shall establish a group account for such  
6 employers effective as of the beginning of the calendar quarter in which  
7 the secretary receives the application and shall notify the group's  
8 representative of the effective date of the account. Such account shall  
9 remain in effect for not less than four years and thereafter such account  
10 shall remain in effect until terminated at the discretion of the secretary or  
11 upon application by the group. Upon establishment of the account, each  
12 member of the group shall be liable for payments in lieu of contributions  
13 with respect to each calendar quarter in the amount that bears the same  
14 ratio to the total benefits paid in such quarter that are attributable to service  
15 performed in the employ of all members of the group as the total wages  
16 paid for service in employment by such member in such quarter bear to the  
17 total wages paid during such quarter for service performed in the employ  
18 of all members of the group. The secretary shall adopt such rules and  
19 regulations as the secretary deems necessary with respect to applications  
20 for establishment, maintenance and termination of group accounts that are  
21 authorized by this subsection (e)(4), for addition of new members to, and  
22 withdrawal of active members from such accounts, and for the  
23 determination of the amounts that are payable under this subsection (e)(4)  
24 by members of the group and the time and manner of such payments.

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

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

31 (2) "Fringe benefit" means health insurance, a retirement benefit  
32 received under a pension plan, a paid vacation day, a paid holiday, sick  
33 leave, and any other analogous employee benefit that is provided by an  
34 employer.

35 (3) "Fund" has the meaning ascribed thereto by K.S.A. 44-703(k),  
36 and amendments thereto.

37 (4) "Normal weekly hours of work" means the lesser of 40 hours or  
38 the average obtained by dividing the total number of hours worked per  
39 week during the preceding twelve-week period by the number 12.

40 (5) "Participating employee" means an employee who works a  
41 reduced number of hours under a shared work plan.

42 (6) "Participating employer" means an employer who has a shared  
43 work plan in effect.

1 (7) "Secretary" means the secretary of labor or the secretary's  
2 designee.

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

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

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

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

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

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

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

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

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

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

37 (5) the shared work plan describes the manner ~~in which~~ that the  
38 participating employer treats the fringe benefits of each employee in the  
39 affected unit and the employer certifies that if the employer provides  
40 health benefits and retirement benefits under a defined benefit plan, as  
41 defined in 26 U.S.C. § 414(j), or contributions under a defined  
42 contribution plan, as defined in 26 U.S.C. § 414(i), to any employee whose  
43 workweek is reduced under the program that such benefits will continue to

1 be provided to employees participating in the shared work compensation  
2 program under the same terms and conditions as though the workweek of  
3 such employee had not been reduced or to the same extent as other  
4 employees not participating in the shared work program;

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

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

14 (8) (A) a contributing employer must be eligible for a rate  
15 computation under K.S.A. 44-710a(a)(2), and amendments thereto, ~~and is~~  
16 ~~not a negative account employer as defined by K.S.A. 44-710a(d), and~~  
17 ~~amendments thereto~~ *and the contributing employer, as determined by the*  
18 *secretary, does not adversely impact the state's eligibility under section*  
19 *2108 of the federal CARES act, public law 116-136;* (B) a rated  
20 governmental employer must be eligible for a rate computation under  
21 K.S.A. 44-710d(g), and amendments thereto;

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

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

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

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

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

40 (g) The secretary shall approve or deny a shared work plan no later  
41 than the 30<sup>th</sup> day after the day the shared work plan is received by the  
42 secretary. The secretary shall approve or deny a shared work plan in  
43 writing. If the secretary denies a shared work plan, the secretary shall

1 notify the employer of the reasons for the denial.

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

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

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

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

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

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

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

39 (4) the individual's normal weekly hours of work and wages have  
40 been reduced as described in subsection (k)(3) for a waiting period of one  
41 week ~~which~~ that occurs within the period the shared work plan is in effect,  
42 which period includes the week for which the individual is claiming shared  
43 work benefits.

1 (l) The secretary shall pay an individual who is eligible for shared  
 2 work benefits under this section a weekly shared work benefit amount  
 3 equal to the individual's regular weekly benefit amount for a period of total  
 4 unemployment multiplied by the nearest full percentage of reduction of the  
 5 individual's hours as set forth in the employer's shared work plan. If the  
 6 shared benefit amount is not a multiple of \$1, the secretary shall reduce the  
 7 amount to the next lowest multiple of \$1. All shared work benefits under  
 8 this section shall be payable from the fund.

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

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

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

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

32 (q) No shared work benefit payment shall be made under any shared  
 33 work plan or this section for any week ~~which~~ that commences before April  
 34 1, 1989.

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

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

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

42 (b) interfere with dissemination of news or comment on public  
 43 affairs; but any communications facility or organization, including but not

1 limited to radio and television stations, wire services and newspapers, may  
2 be required by the governor to transmit or print public service messages,  
3 information or instructions in connection with a declared state of disaster  
4 emergency;

5 (c) *authorize the governor or any other state officer or employee to*  
6 *order the closure or cessation of any business or commercial activity in*  
7 *response to any or all conditions necessitating the declaration of any state*  
8 *of disaster emergency, except the governor or other state officer or*  
9 *employee may order such closure or cessation for a total period of time*  
10 *not to exceed 15 days during any declared state of disaster emergency;*

11 (d) affect, other than during a declared state of disaster emergency,  
12 the jurisdiction or responsibilities of police forces, fire fighting forces,  
13 units of the armed forces of the United States, or of any personnel thereof,  
14 when on active duty; but the state disaster emergency plan and local and  
15 interjurisdictional disaster emergency plans shall place reliance upon such  
16 forces which are available for performance of functions related to a  
17 declared state of disaster emergency; or

18 ~~(d)~~(e) limit, modify or abridge the authority of the governor to  
19 proclaim martial law or exercise any other powers vested in the governor  
20 under the constitution, statutes or common law of this state independent of,  
21 or in conjunction with, any provisions of this act.

22 Sec. 18. K.S.A. 2019 Supp. 48-925 is hereby amended to read as  
23 follows: 48-925. (a) During any state of disaster emergency declared under  
24 K.S.A. 48-924, and amendments thereto, the governor shall be  
25 commander-in-chief of the organized and unorganized militia and of all  
26 other forces available for emergency duty. To the greatest extent  
27 practicable, the governor shall delegate or assign command authority by  
28 prior arrangement, embodied in appropriate executive orders or in rules  
29 and regulations of the adjutant general, but nothing herein shall restrict the  
30 authority of the governor to do so by orders issued at the time of a disaster.

31 (b) Under the provisions of this act and for the implementation  
32 thereof, the governor may issue orders *in conformity with the constitution*  
33 *and the bill of rights of the state of Kansas* and proclamations ~~which that~~  
34 shall have the force and effect of law during the period of a state of  
35 disaster emergency declared under ~~subsection (b) of~~ K.S.A. 48-924(b), and  
36 amendments thereto, and ~~which such~~ orders and proclamations shall be  
37 null and void thereafter unless ratified by concurrent resolution of the  
38 legislature. Such orders and proclamations may be revoked at any time by  
39 concurrent resolution of the legislature.

40 (c) During a state of disaster emergency declared under K.S.A. 48-  
41 924, and amendments thereto, and in addition to any other powers  
42 conferred upon the governor by law, the governor may:

43 (1) Suspend the provisions of any regulatory statute prescribing the

1 procedures for conduct of state business, or the orders or rules and  
2 regulations of any state agency which implements such statute, if strict  
3 compliance with the provisions of such statute, order or rule and regulation  
4 would prevent, hinder or delay in any way necessary action in coping with  
5 the disaster;

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

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

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

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

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

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

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

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

28 ~~(10)~~(9) require and direct the cooperation and assistance of state and  
29 local governmental agencies and officials, *subject to the provisions of*  
30 *section 6, and amendments thereto*; and

31 ~~(11)~~(10) perform and exercise such other *administrative* functions,  
32 powers and duties *in conformity with the constitution and the bill of rights*  
33 *of the state of Kansas* as are necessary to promote and secure the safety  
34 and protection of the civilian population.

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

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

43 (a) The knowing and willful violation of any provision of this act or any



1 rule and regulation adopted by the adjutant general under this act or any  
2 lawful order or proclamation issued under authority of this act whether  
3 pursuant to a proclamation declaring a state of disaster emergency under  
4 K.S.A. 48-924, *and amendments thereto*, or a declaration of a state of local  
5 disaster emergency under K.S.A. 48-932, *and amendments thereto*, shall  
6 constitute a class A misdemeanor and any person convicted of such  
7 violation shall be punished as provided by law therefor.

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

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

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

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

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

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

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

38 (f) (I) "Critical access hospital" means a member of a rural health  
39 network ~~which that:~~ Makes available ~~twenty-four hour~~ *24-hour* emergency  
40 care services; provides not more than 25 acute care inpatient beds or in the  
41 case of a facility with an approved swing-bed agreement a combined total  
42 of extended care and acute care beds that does not exceed 25 beds;  
43 provides acute inpatient care for a period that does not exceed, on an

1 annual average basis, 96 hours per patient; and provides nursing services  
2 under the direction of a licensed professional nurse and continuous  
3 licensed professional nursing services for not less than 24 hours of every  
4 day when any bed is occupied or the facility is open to provide services for  
5 patients unless an exemption is granted by the licensing agency pursuant to  
6 rules and regulations. The critical access hospital may provide any services  
7 otherwise required to be provided by a full-time, on-site dietician,  
8 pharmacist, laboratory technician, medical technologist and radiological  
9 technologist on a part-time, off-site basis under written agreements or  
10 arrangements with one or more providers or suppliers recognized under  
11 medicare. The critical access hospital may provide inpatient services by a  
12 physician assistant, advanced practice registered nurse or a clinical nurse  
13 specialist subject to the oversight of a physician who need not be present  
14 in the facility. In addition to the facility's 25 acute beds or swing beds, or  
15 both, the critical access hospital may have a psychiatric unit or a  
16 rehabilitation unit, or both. Each unit shall not exceed 10 beds and neither  
17 unit ~~will~~ shall count toward the 25-bed limit, ~~nor will these units or~~  
18 be subject to the average 96-hour length of stay restriction.

19 (2) *Notwithstanding the provisions of paragraph (1), prior to June*  
20 *30, 2021, to the extent that a critical access hospital determines it is*  
21 *necessary to treat COVID-19 patients or to separate COVID-19 patients*  
22 *and non-COVID-19 patients, such critical access hospital shall not be*  
23 *limited to 25 beds or, in the case of a facility with an approved swing bed*  
24 *agreement, to a combined total of 25 extended care and acute care beds,*  
25 *and shall not be limited to providing acute inpatient care for a period of*  
26 *time that does not exceed, on an annual average basis, 96 hours per*  
27 *patient.*

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

33 Sec. 21. K.S.A. 48-923, 48-939 and 65-468 and K.S.A. 2019 Supp.  
34 44-702, 44-705, as amended by section 2 of 2020 Senate Bill No. 27, 44-  
35 709, 44-710, 44-757 and 48-925 are hereby repealed.

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