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MEMORANDUM

To: Chairman Waymaster and House Committee on Appropriations
From: Charles Reimer, Assistant Revisor of Statutes
Date: 2/4/2021
Subject: HB 2195

House Bill 2195 primarily acts to provide relief to employers from financial injury arising both directly from fraudulent unemployment claims against a business that have and are being made during the COVID-19 pandemic and from the potential effect of these claims on the unemployment insurance trust fund and the resultant increase in unemployment tax rates for all businesses generally. Protections against employer liability for fraud would extend beyond the current pandemic and the bill also provides for a 20-year review of certain employers who may not have received credit for benefits paid by fraud or in error. The bill seeks to cushion future unemployment insurance tax rate increases by providing for reimbursements from the state general fund to the unemployment insurance trust fund for benefits paid out as the result of fraud.

The bill would:

1. Prevent employer accounts from being charged for any benefits paid beginning on March 15, 2020 through December 31, 2021. Page 4, lines 16-18.

2. Hold employers harmless, not require reimbursement and provide credits or refunds for claims that have been identified by the employer as fraudulent and reported to the secretary of labor, unless the secretary determines that the claim is not fraudulent. Reimbursing employers, such as governmental entities, Indian tribes or nonprofit organizations, who pay the state directly for any benefits paid, are to be refunded for any payments for fraudulent claims made after March 15, 2020, that have been reported to the secretary. An amount refunded would become

due if the secretary determined that the claim is not fraudulent. Page 4, lines 19-25, 30-34; page 12, lines 33-42; page 12, line 43 through page 13, lines 1-6.

3. Direct the secretary to credit an employer's account without any request by the employer or the need to hold a hearing upon the secretary's own determination that benefits were fraudulently paid. Page 12, lines 26-32.

4. Waive the time limitation for an employer to dispute a claim as fraud during the time period of March 15, 2020 through December 31, 2022. Page 4, lines 25-30; page 13, lines 7-12.

5. Direct the secretary to review all reimbursing employer accounts over the past 20 years and apply credits for any benefits previously paid by fraud or in error that were charged against the account and not recovered. Page 13, lines 13-17.

6. Reimburse the unemployment insurance trust fund from the state general fund for improper benefit payments made during the period of March 15, 2020 through December 31, 2022, as identified by the secretary through review of federal department of labor and state department of labor information. The secretary shall identify such amounts within 60 days of information becoming available. The governor, with the approval of the state finance council, may designate the transfer to be from a state account other than the state general fund. Page 13, line 43 through page 14.

In addition, the bill includes a provision that is intended to encourage the legislature to direct federal pandemic-related funds to the unemployment insurance trust fund and a provision clarifying that any federal unemployment insurance benefit program established because of COVID-19 is not to be continued after the ending date of the federal program by the use of unemployment insurance fund contributions by Kansas employers. Page 14, lines 30-38.

If passed, the bill would become effective July 1, 2021.