

REPORTS OF STANDING COMMITTEES

MR. SPEAKER:

The Committee on **Commerce, Labor and Economic Development** recommends **HB 2401** be amended on page 21, in line 36, after the period by inserting "Except as otherwise provided by the employment security law or this subsection,"; in line 37, after the period by inserting "An extension or extensions of up to a total of four additional weeks of temporary employment at the request of an employer for an individual may be granted by the secretary as provided by K.S.A. 44-775(a)(2), and amendments thereto. The maximum amount of temporary unemployment for an individual in a benefit year, including any extensions granted by the secretary, shall be 12 weeks.

Sec. 2. K.S.A. 44-705 is hereby amended to read as follows: 44-705. Except as provided by K.S.A. 44-757, and amendments thereto, an unemployed individual shall be eligible to receive benefits with respect to any week only if the secretary, or a person or persons designated by the secretary, finds that:

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

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

(c) (1) The claimant is able to perform the duties of such claimant's customary occupation or the duties of other occupations that the claimant is reasonably fitted by training or

experience, and is available for work, as demonstrated by the claimant's pursuit of the full course of action most reasonably calculated to result in the claimant's reemployment except that, notwithstanding any other provisions of this section, an unemployed claimant otherwise eligible for benefits shall not become ineligible for benefits:

(A) Because of the claimant's enrollment in and satisfactory pursuit of approved training, including training approved under section 236(a)(1) of the trade act of 1974;

(B) solely because such individual is seeking only part-time employment if the individual is available for a number of hours per week that are comparable to the individual's part-time work experience in the base period; or

(C) because a claimant is not actively seeking work:

(i) During a state of disaster emergency proclaimed by the governor pursuant to K.S.A. 48-924 and 48-925, and amendments thereto;

(ii) in response to the spread of the public health emergency of COVID-19; and

(iii) the state's temporary waiver of the work search requirement under the employment security law for such claimant is in compliance with the families first coronavirus response act, public law 116-127.

(2) The secretary shall develop and implement procedures to address claimants who refuse to return to suitable work or refuse to accept an offer of suitable work without good cause. Such procedures shall include the receipt and processing of job refusal reports from employers, the evaluation of such reports in consideration of the claimant's work history and skills and suitability of the offered employment and guidelines for a determination of whether the claimant shall remain eligible for unemployment benefits or has failed to meet the work search requirements of this subsection or the requirements of K.S.A. 44-706(c), and amendments

thereto. In determining whether the employment offered is suitable, the secretary's considerations shall include whether the employment offers wages comparable to the claimant's recent employment and work duties that correspond to the claimant's education level and previous work experience. The secretary shall also consider whether the employment offers wages of at least the amount of the claimant's maximum weekly benefits.

(3) To facilitate the requirements of paragraph (2), the secretary shall provide readily accessible means for employers to notify the department when a claimant refuses to return to work or refuses an offer of employment, including by telephone, email or an online web portal. The secretary shall create or cause to be created in the new unemployment insurance information technology system as provided by K.S.A. 44-772, and amendments thereto, an audit process for employers to submit reports regarding activities related to the work search requirement or to the my reemployment plan, established in K.S.A. 44-775, and amendments thereto, and applicants that accept interview appointments but do not participate or notify the interviewing employer of their inability to participate in the scheduled interview. The secretary shall not be required to implement such audit process prior to the completion of such new unemployment insurance information technology system. Nothing in this subsection shall be construed as to require an employer to report such job refusals to the department.

(4) At the time of receipt of notice from an employer pursuant to paragraph (3), the secretary shall, within 10 business days of receipt of such notice from the employer, provide a notice to the claimant who has refused to return to work or to accept an offer of suitable work without good cause. The method of providing the notice to the claimant shall be consistent with other correspondence from the department to the claimant and may include mail, telephone, email or through an online web portal. The notice shall, at minimum, include the following

information:

(A) A summary of state employment security law regarding a claimant's duties to return to work or accept suitable work;

(B) a statement that the claimant has been or may be disqualified and the claimant's right to collect benefits has been or may be terminated for refusal to return to work or accept suitable work without good cause, as provided by this subsection and K.S.A. 44-706(c), and amendments thereto;

(C) an explanation of what constitutes suitable work under the employment security law; and

(D) instructions for contesting a denial of a claim if the denial is based upon a report by an employer that the claimant has refused to return to work or has refused to accept an offer of suitable work.

(5) The secretary shall include notices to all active employers regarding work search noncompliance reporting options provided in paragraph (3) in the department of labor's annual summary of benefit charges pursuant to K.S.A. 44-710b(d), and amendments thereto, and in the rate notices to employers pursuant to K.S.A. 44-710b(a), and amendments thereto. The secretary shall not be required to implement such notice requirements prior to the completion of the new unemployment insurance information technology system, as provided by K.S.A. 44-772, and amendments thereto.

~~(5)~~(6) For the purposes of this subsection, an inmate of a custodial or correctional institution shall be deemed to be unavailable for work and not eligible to receive unemployment compensation while incarcerated.

(d) (1) Except as provided further, the claimant has been unemployed for a waiting

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

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

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

or

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

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

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

(ii) new claims filed on or after April 5, 2020, through December 26, 2020, in accordance with the families first coronavirus response act, public law 116-127 and the federal CARES act, public law 116-136.

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

(3) If the waiting week requirement of paragraph (1) applies, a claimant shall become

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

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

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

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

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

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

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

On page 46, following line 34, by inserting:

"Sec. 6. K.S.A. 44-772 is hereby amended to read as follows: 44-772. (a) It is the intent of the legislature that, in order to accomplish the mission of collecting state employment security taxes, processing unemployment insurance benefit claims and paying benefits, the department of labor's information technology system shall be continually developed, customized, enhanced and upgraded. The purpose of this section is to ensure the state's unemployment insurance program is utilizing current technology and features to protect the sensitive data required in the unemployment insurance benefit and tax systems relating to program integrity, system efficiency and customer service experience.

(b) The legislature finds that, as a result of the vulnerabilities exposed in the legacy unemployment insurance system by the COVID-19 pandemic unemployment insurance crisis, a new system shall be fully designed, implemented and administered by the department of labor not later than December 31, 2022. The legislative coordinating council, upon consultation with the unemployment compensation modernization and improvement council established by K.S.A. 44-771, and amendments thereto, may extend the deadline ~~to a date certain and may further extend the deadline to another date certain at any time~~ as often as the legislative coordinating council deems appropriate. The secretary of labor shall provide written notice to the legislative coordinating council and the unemployment compensation modernization and improvement

council at least 30 days prior to the expiration of a deadline advising whether the secretary seeks an extension of the deadline and, if so, the basis therefor. The failure of the secretary to provide such notice shall not affect the authority of the legislative coordinating council to act as provided by this subsection. For purposes of this subsection, "consultation" means an appearance before, or written statement provided to, the legislative coordinating council by the chairman of the unemployment compensation modernization and improvement council or the chairman's designee. Any member of the unemployment compensation modernization and improvement council may also provide a written statement. A report to the legislative coordinating council by the unemployment compensation modernization and improvement council may be provided but shall not be required. If any deadline expires before the legislative coordinating council extends that deadline, the council may subsequently meet as soon as reasonably possible and may retroactively extend any deadline as otherwise provided by this subsection.

(c) The information technology system, technology and platform shall include, but not be limited to, any components as specified and defined by the unemployment compensation modernization and improvement council established by K.S.A. 44-771, and amendments thereto, in consultation with the secretary.

(d) The new system shall include, but not be limited to, any features and benefits as specified and defined by the unemployment compensation modernization and improvement council established by K.S.A. 44-771, and amendments thereto, in consultation with the secretary.

(e) The secretary shall implement and utilize all program integrity elements, as specified and defined by the unemployment compensation modernization and improvement council established by K.S.A. 44-771, and amendments thereto, in consultation with the

secretary, including, but not limited to:

(1) Social security administration cross-matching for the purpose of validating social security numbers supplied by a claimant;

(2) checking of new hire records against the national directorate of new hires to verify eligibility;

(3) verification of immigration status or citizenship and confirmation of benefit applicant information through the systematic alien verification for entitlement program;

(4) comparison of applicant information to local, state and federal prison databases through incarceration cross-matches;

(5) detection of duplicate claims by applicants filed in other states or other unemployment insurance programs through utilization of the interstate connection network, interstate benefits cross-match, the state identification inquiry state claims and overpayment file and the interstate benefits 8606 application for overpayment recoveries for Kansas claims filed from a state other than Kansas;

(6) identification of internet protocol addresses linked to multiple claims or to claims filed outside of the United States; and

(7) use of data mining and data analytics to detect and prevent fraud when a claim is filed, and on an ongoing basis throughout the lifecycle of a claim, by using current and future functionalities to include suspicious actor repository, suspicious email domains, foreign internet protocol addresses, multi-state cross-match, identity verification, fraud alert systems and other assets provided by the unemployment insurance integrity center.

(f) If the unemployment compensation modernization and improvement council becomes inactive or is dissolved and the new information technology system modernization

project has been completed, the secretary shall implement and utilize all new program integrity elements and guidance issued by the United States department of labor and the national association of state workforce agencies, including the integrity data hub, within 60 days of the issuance of any such guidance.

(g) The secretary, on a scheduled basis, shall cross check new and active unemployment insurance claims against the cross-check programs described in subsection (e). If the secretary receives information concerning an individual approved for benefits that indicates a change in circumstances that may affect eligibility, the secretary shall review the individual's case and act in accordance with the law.

(h) The department of labor shall have the authority to execute a memorandum of understanding with any department, agency or agency division for information required to be shared between agencies pursuant to the provisions of this section.

(i) The secretary of labor shall adopt rules and regulations necessary for the purposes of carrying out this section. Such rules and regulations shall be adopted within 12 months of the effective date of this act.

(j) The secretary of labor shall provide an annual status update and progress report regarding the requirements of this section to the unemployment compensation modernization and improvement council and the legislative coordinating council.

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

Sec. 7. K.S.A. 2022 Supp. 44-775 is hereby amended to read as follows: 44-775. (a) (1) The secretary of labor and the secretary of commerce shall jointly establish and implement the my reemployment plan as provided in this section. For purposes of this section, "my reemployment plan" means a program jointly established and implemented by the Kansas

department of labor and the Kansas department of commerce that provides enhanced reemployment services, including workforce services provided by the department of commerce, to Kansans receiving unemployment insurance benefits. The program shall be required for all claimants except claimants in the shared work program, trade adjustment assistance and trade readjustment assistance program, claimants on temporary layoff with a return-to-work date but such claimants shall only be excepted during any first 8 consecutive weeks of benefits, claimants that are currently employed, claimants that are current reemployment services and eligibility assessment participants, claimants that are active members in good standing of a placement union or claimants that are engaged in a training program. ~~The program shall be implemented on or before June 1, 2021 or claimants that are on temporary unemployment as defined in K.S.A. 44-703(ii), and amendments thereto.~~

(2) Rated employers seeking an extension of temporary unemployment with respect to an individual shall submit a written request to the secretary. The total maximum of temporary unemployment for an individual in a benefit year, including any extensions as provided by this paragraph, shall be 12 weeks. As a condition of approval by the secretary, a rated employer shall agree to furnish the secretary with reports relating to the temporary unemployment extension request as the secretary may require. The secretary may approve one or more extensions of up to a total of four weeks of additional temporary unemployment for an individual, if the secretary determines the requesting employer is a contributing employer eligible for a rate computation under K.S.A. 44-710a(a)(2), and amendments thereto, and is a:

(A) Rated employer that has filed all reports required to be filed under the employment security law for all past and current periods and has paid all contributions; and

(B) (i) positive account employer as defined by K.S.A. 44-710a(d), and amendments

thereto; or

(ii) negative account employer as defined by K.S.A. 44-710a(d), and amendments thereto, and the negative account employer's most recent calculated reserve ratio has improved from the reserve ratio of such employer for the previous reporting year.

~~(2)~~(3) The secretary of labor shall provide the secretary of commerce with the names and contact information of claimants that have claimed a third week of benefits in the current benefit year. The secretary of labor shall request the claimant to upload or create a complete resume in the Kansasworks workforce system, and complete a job search plan that includes a skills assessment component. The secretary of commerce shall offer and provide, when requested, assistance to the claimants in developing the documents or plan through collaboration by the secretary with the Kansasworks workforce system. The secretary of commerce may require claimants to participate in reemployment services. The claimant shall have 14 calendar days to respond to the secretary of commerce. The secretary of commerce shall report any failure to respond by the claimant to the secretary of labor.

~~(3)~~(4) The secretary of labor shall share labor market information and current available job positions with the secretary of commerce. The secretary of labor may collaborate with Kansasworks or other state or federal agencies with job availability information in obtaining or sharing such information.

~~(4)~~(5) The secretary of commerce shall match open job positions with claimants based on skills, work history and job location that is a reasonable commute from the claimant's residence and communicate the match information to the claimant and to the employer. The secretary of labor and the secretary of commerce shall consider whether the claimant or a Kansas employer would benefit from the claimant's participation in a work skills training or retraining

program as provided by subsection (b) and, if so, provide such information to the employer, if applicable, and the claimant. Claimants who fail to respond within 14 calendar days after contact by Kansasworks or the department of commerce shall be reported by the secretary of commerce to the secretary of labor.

~~(5)~~(6) The secretary of commerce and the secretary of labor shall monitor the result of job matches and share information regarding any claimant who did not attend an interview or did not accept a position that was a reasonable match for the claimant's work history and skills and was within a reasonable commute from the claimant's residence. The secretary of commerce shall contact the claimant and report the contact to the secretary of labor. The secretary of labor shall consider whether the claimant has failed to meet work search requirements and if the claimant should continue to receive benefits.

(b) The secretary of commerce shall refer claimants to a work skills training or retraining program as appropriate. The secretary of commerce shall seek to obtain or utilize any available federal funds for the program, and to the extent feasible, may make current work skills training and retraining programs available to claimants. The secretary of labor may allow claimants to participate in such a program offered by the secretary of commerce or by another state or federal agency in lieu of requiring the claimant to meet job search requirements and the requirements of the my reemployment plan until the number of allowed benefit weeks has expired. A claimant shall participate in such a program for not less than 25 hours per week. The secretary of commerce shall monitor those my reemployment plan claimants participating in training managed by the workforce centers to ensure compliance.

(c) Claimants who participate in the my reemployment plan or the work skills training or retraining program shall meet attendance or progress requirements established by the secretary

of commerce to continue eligibility for unemployment insurance benefits. Non-compliant claimants shall be reported by the secretary of commerce to the secretary of labor. The secretary of labor shall disqualify such claimants from further benefits within five business days of receiving the report, unless or until the claimant demonstrates compliance to the secretary of commerce, and shall communicate the disqualification and the reason for the disqualification to the claimant. The secretary of commerce shall report to the secretary of labor when the claimant has reestablished compliance. The secretary of labor may continue benefits or reinstate a claimant's eligibility for benefits upon a showing of good cause by the claimant for the failure to meet attendance or progress requirements or my reemployment plan participation requirements.

(d) The secretary of labor and the secretary of commerce shall provide an annual status update and progress report for the my reemployment plan to the standing committee on commerce, labor and economic development of the house of representatives and the standing committee on commerce of the senate during the first month of the 2022 regular legislative session and the first month of each regular legislative session thereafter.

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

Also on page 46, in line 35, after the first "K.S.A." by inserting "44-705,"; also in line 35, by striking the first "and" and inserting a comma; also in line 35, after "44-717" by inserting "and 44-772"; also in line 35, by striking the third "and" and inserting a comma; in line 36, after "44-710a" by inserting "and 44-775";

And by renumbering sections accordingly;

On page 1, in the title, in line 10, after the semicolon by inserting "requiring the secretary to create an audit process within the new unemployment insurance information technology system to permit employers to submit reports regarding work search, the my reemployment plan and

claimants who do not provide notification or appear for scheduled interviews; providing for notices by the secretary to active employers regarding work search noncompliance reporting options; authorizing the legislative coordinating council to extend the new unemployment insurance information technology system implementation date as often as deemed appropriate by the council, requiring the secretary to notify the council of the need for an extension and permitting retroactive extension if necessary; authorizing the secretary to extend temporary unemployment up to four weeks upon request by employers;"; also in line 10, after "K.S.A." by inserting "44-705,"; also in line 10, by striking "and" and inserting a comma; in line 11, after "717" by inserting "and 44-772"; also in line 11, by striking the second "and" and inserting a comma; also in line 11, after "44-710a" by inserting "and 44-775"; and the bill be passed as amended.

Chairperson