

**HOUSE BILL No. 2196**

By Committee on Commerce, Labor and Economic Development

2-1

Proposed Amendments for HB 2196  
Committee on Commerce, Labor  
and Economic Development  
Hoffman #2  
February 18, 2021  
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Office of Revisor of Statutes

1 AN ACT concerning employment security; creating the unemployment  
2 compensation modernization and improvement council; providing for  
3 development of a new unemployment insurance information  
4 technology system; claimant tax information; website publication of  
5 trust fund data; maximum benefit period; charging of employer  
6 accounts for benefits paid; employer contribution rate determination  
7 and schedules; abolishing the employment security interest assessment  
8 fund; crediting employer accounts for fraudulent or erroneous  
9 payments; transferring moneys from the state general fund to the  
10 unemployment insurance trust fund for improper benefit payments;  
11 services performed by petroleum landmen; lessor employment unit  
12 employee leasing restrictions; relating to other unemployment trust  
13 fund provisions; shared work compensation program; amending K.S.A.  
14 44-758 and K.S.A. 2020 Supp. 44-703, 44-704, 44-710, 44-710a, 44-  
15 710b and 44-757 and repealing the existing sections.

16

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

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

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

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

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

34 (D) two members of the senate appointed by the president of the  
35 senate, one of whom is a member of the majority party and one of whom is  
36 a member of the minority party;

1 section 121 of public law 94-566 (90 Stat. 2673).

2 (G) With respect to weeks of unemployment beginning after  
3 December 31, 1977, wages for insured work shall include wages paid for  
4 previously uncovered services. For the purposes of this subsection (c)(2)  
5 (G), the term "previously uncovered services" means services that were  
6 not covered employment, at any time during the one-year period ending  
7 December 31, 1975, except to the extent that assistance under title II of the  
8 federal emergency jobs and unemployment assistance act of 1974 was paid  
9 on the basis of such services, and that:

10 (i) Are agricultural labor as defined in K.S.A. 44-703(w), and  
11 amendments thereto, or domestic service as defined in K.S.A. 44-703(aa),  
12 and amendments thereto;

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

16 (iii) are services performed by an employee of a nonprofit educational  
17 institution that is not an institution of higher education.

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

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

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

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

42 (A) The erroneous payment was made because the employer, or the  
43 agent of the employer, was at fault for failing to respond timely or

or as an improper payment, as defined in K.S.A. 2020 Supp.  
44-710b(e)(2), and amendments thereto,

1       Sec. 9. K.S.A. 2020 Supp. 44-710b is hereby amended to read as  
 2 follows: 44-710b. (a) *By the secretary of labor.* The secretary of labor shall  
 3 promptly notify each contributing employer of its rate of contributions,  
 4 each rated governmental employer of its benefit cost rate and each  
 5 reimbursing employer of its benefit liability as determined for any  
 6 calendar year pursuant to K.S.A. 44-710 and 44-710a, and amendments  
 7 thereto, on or before November 30 of the calendar year immediately  
 8 preceding the calendar year in which such rate takes effect. Such  
 9 determination shall become conclusive and binding upon the employer  
 10 unless, within 15 days after the mailing of notice thereof to the employer's  
 11 last known address or in the absence of mailing, within 15 days after the  
 12 delivery of such notice, the employer files an application for review and  
 13 redetermination, setting forth the reasons therefor. If the secretary of labor  
 14 grants such review, the employer shall be promptly notified thereof and  
 15 shall be granted an opportunity for a fair hearing, but no employer shall  
 16 have standing, in any proceeding involving the employer's rate of  
 17 contributions or benefit liability, to contest the chargeability to the  
 18 employer's account of any benefits paid in accordance with a  
 19 determination, redetermination or decision pursuant to ~~subsection (e) of~~  
 20 K.S.A. 44-710(c), and amendments thereto, except upon the ground that  
 21 the services on the basis of which such benefits were found to be  
 22 chargeable did not constitute services performed in employment for the  
 23 employer and only in the event that the employer was not a party to such  
 24 determination, redetermination or decision or to any other proceedings  
 25 under this act in which the character of such services was determined. Any  
 26 such hearing conducted pursuant to this section shall be heard in the  
 27 county where the contributing employer maintains its principle place of  
 28 business. The hearing officer shall render a decision concerning all matters  
 29 at issue in the hearing within 90 days.

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

37       (2) (A) *Contributing employers, rated governmental employers and*  
 38 *reimbursing employers shall be held harmless for and shall not be*  
 39 *required to reimburse the state for any benefits paid that have been*  
 40 *identified by the employer as fraudulent ~~and reported to the secretary~~*  
 41 *unless the secretary determines that such benefits were received properly*  
 42 *and not: (i) By fraud; or (ii) in error where any conditions imposed by this*  
 43 *act for the receipt of benefits were not fulfilled or where the recipient was*

any contributing employer's, governmental  
 rated employer's or reimbursing

or as an improper payment, as defined by  
 subsection (e)(2),