

## 2021 Kansas Statutes

**44-771. Unemployment compensation modernization and improvement council; creation; membership; terms; vacancies; dissolution; compensation; organization; duties and limitations; audit and executive session; staffing; initial report; certain duties of secretary; posting of materials; notifications; strategic staffing plan; rules and regulations; status reports.** (a) (1) There is hereby created the unemployment compensation modernization and improvement council. The council shall consist of 13 members appointed as follows:

(A) Three members who, on account of their vocation, employment or affiliations, may be classed as representative of employers, one of whom shall be selected by the governor, one by the speaker of the house of representatives and one by the president of the senate;

(B) three members who, on account of their vocation, employment or affiliation, may be classed as representative of employees, one of whom shall be selected by the governor, one by the speaker of the house of representatives and one by the president of the senate;

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

(D) two members of the senate, one of whom shall be a member of the majority party appointed by the president of the senate and one of whom shall be a member of the minority party appointed by the minority leader of the senate;

(E) two members of the house of representatives, one of whom shall be a member of the majority party appointed by the speaker of the house of representatives and one of whom shall be a member of the minority party appointed by the minority leader of the house of representatives; and

(F) the secretary of labor or a designee of the secretary who has administrative responsibilities with respect to the unemployment insurance compensation system of the department of labor.

(2) Legislative members shall serve during the legislative session in which they are appointed to the council and shall remain members of the legislature in order to retain membership on the council. Vacancies of legislative members during a term shall be filled in the same manner as the original appointment only for the unexpired part of the term. The appointing authority for the legislative member may remove the member, reappoint the member or substitute another appointee for the member at any time.

(3) The members of the council shall be appointed and the council shall hold its first meeting within 30 days of the effective date of this act.

(b) All non-legislative members shall serve for three years or until the council is dissolved, whichever is shorter. Vacancies of non legislative members shall be filled in the same manner as the original appointment only for the unexpired part of the term. The appointing authority for the member may remove the member, reappoint the member or substitute another appointee for the member at any time.

(c) The council shall be dissolved and the provisions of this section pertaining to the establishment, function and operation of the council shall no longer be in effect after three years from the date of the council's first meeting.

(d) Each member of the council shall be entitled to receive compensation for the member's services, together with the member's travel and other necessary expenses actually incurred in the performance of the member's official duties, in accordance with policies adopted by the council. Members' compensation and expenses shall be paid from the employment security administration fund or any account of the state general fund of the department of

labor, as designated by the secretary.

(e) The chairperson of the house of representatives standing committee on commerce, labor and economic development, or a successor committee to which legislation pertaining to employment security law is customarily referred, shall serve as the chairperson of the council when first organized and for the ensuing two years. The chairperson of the senate standing committee on commerce, or a successor committee to which legislation pertaining to employment security law is customarily referred, shall serve as the chairperson of the council for the next two years, and thereafter the office of chairperson shall continue to alternate between the chambers as provided herein.

(f) The council shall examine and recommend changes to the unemployment compensation system to include current limitations, new features and benefits, system enhancements and dynamic, accurate reporting for the benefit of both employers and individuals. The council shall also examine the process by which an individual files a claim for and receives benefits and any changes made to that process after the effective date of this section. The scope of the council's examinations and recommendations shall include, but not be limited to, the following:

- (1) The technological infrastructure used to file and process claims and pay benefits and the experience of individuals and employers participating in the process;
- (2) system improvements or upgrades that will maximize responsiveness for individuals and employers;
- (3) methods for information and data sharing across agency systems related to unemployment compensation to maximize efficiency; and
- (4) system improvements or upgrades relating to system integrity by reporting vulnerabilities and recommended system enhancements to include identity verification and protection, social security administration cross-match, systematic alien verification for entitlement, incarceration cross-matches, interstate connection network, internet protocol address and data mining and analytics to detect and prevent fraud. Such data mining and analytics shall include current and future recommendations by the United States department of labor and the national association of state workforce agencies, including suspicious actor repository, suspicious email domains, foreign IP addresses, multi-state cross-match, identity verification, fraud alert system, and other assets provided by the unemployment insurance integrity center.

(g) (1) The council shall conduct an audit that shall examine the effects on the department of labor and the unemployment insurance system of fraudulent claims and improper payments during the period of March 15, 2020, through March 31, 2022, and the response by the department of labor to such fraudulent claims and improper payments during that period. The council shall select an independent firm to conduct the audit. The auditor shall have access to all confidential documents. The scope of the audit shall include, but not be limited to, the amounts and nature of improper payments and fraudulent claims, fraud processes and methods and the possibility of recovery of any improper payments. The audit shall also include, but not be limited to, an evaluation that provides likelihood of a data breach being a contributing factor to any fraudulent payments, improper network architecture allowing a potential breach to have occurred and a timeline of relevant events. The independent firm shall make a preliminary report to the council by May 1, 2022, and a final report by September 1, 2022, that shall be made publicly available by the council. The preliminary report should include, but not be limited to, an evaluation of systems with access to the payment and processing of claims, forensic endpoint images related to the claims and the external perimeter housing the claims systems, as well as an evaluation of the department of labor's response to claims. The council's report, and any subsequent report provided, shall also include information on the progress regarding the secretary's

implementation of all program integrity elements and guidance issued by the United States department of labor and the national association of state workforce agencies as described in K.S.A. 44-772(e), and amendments thereto. Any confidential information shall be redacted and shall not be made public. The audit shall be paid for by the state, subject to appropriations therefor.

(2) The council may hold an executive session that shall not be public under the Kansas open meetings act for the purpose of hearing and discussing any confidential portions of the audit. The council shall follow the provisions of K.S.A. 75-4319, and amendments thereto, when conducting such an executive session.

(h) The council shall not examine the solvency of the unemployment compensation fund created by K.S.A. 44-710a, and amendments thereto, or changes that would either increase or reduce benefits paid from the fund.

(i) The staff of the legislative research department, the office of revisor of statutes and the division of legislative administrative services shall provide such assistance as may be requested by the chairperson.

(j) (1) The council shall only have access to records of the department of labor that are necessary for the administration and duties of the council. The council shall not have access to any confidential or personal identifying information. The council may request that the secretary of labor, department of labor employee or any private or public employer or employee with information of value to the council appear before the council and testify to matters within the council's purview.

(2) Not later than 14 days after the council's first meeting, the council shall issue an initial report that, at a minimum, describes the state of the process by which an individual files a claim for and receives benefits under the employment security law at the time the report is issued and planned improvements to the process. The council may address other matters within the council's purview in the report.

(3) The secretary of labor shall post all testimony and other relevant materials discussed, presented to or produced for the council on a publicly accessible website maintained by the secretary.

(k) The secretary of labor shall notify the chairperson of the council of any unauthorized third-party access to or acquisition of records maintained by the secretary that are necessary for the administration of the employment security law. The secretary shall provide the notice not more than five days after the secretary discovers or is notified of the unauthorized access or acquisition.

(l) The secretary of labor shall notify the members of the council of any substantial disruption in the process by which applications for determination of benefit rights and claims for benefits are filed with the secretary. The council shall, in cooperation with the secretary, adopt and periodically review a definition of substantial disruption for purposes of this subsection.

(m) (1) The secretary of labor shall, with the assistance of the council:

(A) Develop a written strategic staffing plan to be implemented whenever there is a substantial increase or a substantial decrease in the number of inquiries or claims for benefits and review the plan in accordance with the provisions of subsection (n);

(B) create, in a single place on the website maintained by the secretary, a list of all points of contact by which an applicant for or a recipient of unemployment compensation benefits or an employer may submit inquiries related to the employment security law; and

(C) adopt rules and regulations creating a uniform process through which an applicant for or a recipient of benefits under the employment security law or an employer may submit a complaint related to the service the applicant, recipient or employer received.

(2) In the written strategic staffing plan required under paragraph (1)(A), the secretary

shall include an explanation of whether and in what manner the secretary will utilize:

(A) Department employees who do not ordinarily perform services related to unemployment compensation;

(B) employees employed by other state agencies; and

(C) employees provided by private entities.

(n) For purposes of subsection (m)(1)(A), the secretary of labor shall develop the initial written strategic staffing plan and provide such plan to the council, the president of the senate, the speaker of the house of representatives and the governor. The secretary shall review the plan at least once per year. If, after reviewing the plan, the secretary determines that the plan should be revised, the secretary shall revise the plan. After each review of the plan as provided under this subsection, the secretary shall provide the most recent version of the plan to the council, the president of the senate, the speaker of the house of representatives and the governor. The secretary shall post the most recent version of the plan on a publicly accessible website maintained by the secretary.

(o) The council may suggest rules and regulations for adoption by the secretary as necessary to implement the provisions of this section.

(p) The secretary of labor or the secretary's designee shall provide status reports on or before the 15th day and the last day of each month to the council. The reports shall include, but not be limited to, the status of the new unemployment information technology system upgrade timeline, progress, budget and the overall project status. At such time that the new system becomes operational, the reports shall include, but not be limited to, system performance and process updates.

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

**History:** L. 2021, ch. 92, § 1; May 13.