

Substitute for HOUSE BILL No. 2196

By Committee on Commerce, Labor and Economic Development

3-2

1 AN ACT concerning employment security; creating the unemployment
2 compensation modernization and improvement council; providing for
3 an audit to be conducted by the council; providing for development of a
4 new unemployment insurance information technology system; claimant
5 tax information; website publication of trust fund data; maximum
6 benefit period; charging of employer accounts for benefits paid;
7 employment security board of review and emergency expansion
8 thereof; employer contribution rate determination and schedules;
9 abolishing the employment security interest assessment fund; crediting
10 employer accounts for fraudulent or erroneous payments; transferring
11 moneys from the state general fund to the unemployment insurance
12 trust fund for improper benefit payments; services performed by
13 petroleum landmen; lessor employment unit employee leasing
14 restrictions; shared work compensation program; establishing the my
15 reemployment plan; providing job search and job matching assistance
16 to claimants and employers; providing for workforce training program
17 availability for claimants; making and concerning appropriations for
18 the fiscal years ending June 30, 2021, and June 30, 2022; amending
19 K.S.A. 44-758 and K.S.A. 2020 Supp. 44-703, 44-704, 44-705, 44-709,
20 44-710, 44-710a, 44-710b and 44-757 and repealing the existing
21 sections.

22

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

24

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

28

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

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

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(C) the chairpersons of the standing committees of the senate and the

1 house of representatives to which legislation pertaining to the employment
2 security law is customarily referred, appointed by the president of the
3 senate and the speaker of the house of representatives, respectively;

4 (D) two members of the senate appointed by the president of the
5 senate, one of whom is a member of the majority party and one of whom is
6 a member of the minority party;

7 (E) two members of the house of representatives appointed by the
8 speaker of the house of representatives, one of whom is a member of the
9 majority party and one of whom is a member of the minority party; and

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

13 (2) In the event the governor fails to appoint a member selected by
14 the workers compensation and employment security boards nominating
15 committee, the committee may replace that selection with another, subject
16 to the same appointment requirements. Members of the council appointed
17 by the governor shall serve for a term of four years, and each term shall
18 end on the same day as the date of their original appointment. When an
19 employer representative vacancy or employee representative vacancy on
20 the council occurs, the workers compensation and employment security
21 boards nominating committee shall convene and submit a nominee to the
22 governor for appointment.

23 (3) Legislative members shall serve during the legislative session in
24 which they are appointed to the council and shall remain members of the
25 legislature in order to retain membership on the council. Vacancies of
26 legislative members during a term shall be filled in the same manner as the
27 original appointment only for the unexpired part of the term.

28 (b) All other members shall serve for three years or until the council
29 is dissolved, whichever is shorter. Vacancies of non legislative members
30 shall be filled in the same manner as the original appointment only for the
31 unexpired part of the term.

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

36 (d) Each member of the council shall be entitled to receive
37 compensation for the member's services, together with the member's travel
38 and other necessary expenses actually incurred in the performance of the
39 member's official duties, in accordance with rules and regulations adopted
40 by the council. Members' compensation and expenses shall be paid from
41 the employment security administration fund or any account of the state
42 general fund of the department of labor, as designated by the secretary.

43 (e) The members who are the chairpersons of the standing

1 committees of the senate and the house of representatives to which
2 legislation pertaining to employment security law is customarily referred
3 shall jointly call the first meeting of the council. The council shall annually
4 organize itself and select a chairperson. Six members shall constitute a
5 quorum, and the council shall act only on the affirmative vote of six
6 members. A vacancy on the council shall not impair the right of a quorum,
7 to exercise all the rights and perform all the duties of the council. The
8 council shall meet as often as necessary to perform its duties.

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

17 (1) The technological infrastructure used to file and process claims
18 and pay benefits and the experience of individuals and employers
19 participating in the process;

20 (2) system improvements or upgrades that will maximize
21 responsiveness for individuals and employers;

22 (3) methods for information and data sharing across agency systems
23 related to unemployment compensation to maximize efficiency;

24 (4) system improvements or upgrades relating to system integrity by
25 reporting vulnerabilities and recommended system enhancements to
26 include identity verification and protection, social security administration
27 cross-match, systematic alien verification for entitlement, incarceration
28 cross-matches, interstate connection network, internet protocol address and
29 data mining and analytics to detect and prevent fraud. Such data mining
30 and analytics shall include current and future recommendations by the
31 United States department of labor and the national association of state
32 workforce agencies, including suspicious actor repository, suspicious
33 email domains, foreign IP addresses, multi-state cross-match, identity
34 verification, fraud alert system, and other assets provided by the
35 unemployment insurance integrity center; and

36 (5) methods for synergizing user experience across multiple programs
37 administered or supervised by the secretary of labor.

38 (g) (1) The council shall conduct an audit that shall examine the
39 effects on the department of labor and the unemployment insurance system
40 of fraudulent claims and improper payments during the period of March
41 15, 2020, through March 31, 2022, and the response by the department of
42 labor to such fraudulent claims and improper payments during that period.
43 The council shall select an independent firm to conduct the audit. The

1 auditor shall have access to all confidential documents. The scope of the
2 audit shall include, but not be limited to, the amounts and nature of
3 improper payments and fraudulent claims, fraud processes and methods
4 and the possibility of recovery of any improper payments. The audit shall
5 also include, but not be limited to, an evaluation that provides likelihood
6 of a data breach being a contributing factor to any fraudulent payments,
7 improper network architecture allowing a potential breach to have
8 occurred and a timeline of relevant events. The independent firm shall
9 make a preliminary report to the council by May 1, 2022, and a final report
10 by September 1, 2022, that shall be made publicly available by the council.
11 The preliminary report should include, but not be limited to, an evaluation
12 of systems with access to the payment and processing of claims, forensic
13 endpoint images related to the claims and the external perimeter housing
14 the claims systems, as well as an evaluation of the department of labor's
15 response to claims. Any confidential information shall be redacted and
16 shall not be made public. The audit shall be paid for by the state, subject to
17 appropriations therefor.

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

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

27 (i) The secretary of labor shall appoint an executive secretary of the
28 council, and the executive secretary shall attend the meetings of the
29 council. The executive secretary's duties shall include:

30 (1) Maintaining council agendas and assisting in planning meetings
31 and conferences;

32 (2) attending meetings and keeping minutes;

33 (3) receiving and screening phone calls and redirecting phone calls
34 when appropriate;

35 (4) handling and prioritizing all official outgoing or incoming regular
36 mail or electronic correspondence;

37 (5) making travel arrangements for members related to council
38 business;

39 (6) handling confidential documents and ensuring they remain secure;

40 (7) maintaining electronic and paper records and ensuring such
41 information is organized and easily accessible; and

42 (8) conducting research and preparing presentations or reports as
43 assigned by the chairperson or the secretary of labor.

1 (j) (1) The council shall only have access to records of the department
2 of labor that are necessary for the administration and duties of the council.
3 The council shall not have access to any confidential or personal
4 identifying information. The council may request that the secretary of
5 labor, department of labor employee or any private or public employer or
6 employee with information of value to the council appear before the
7 council and testify to matters within the council's purview. At least once
8 per year, the council shall allow members of the public to appear before
9 the council to testify on any such matters.

10 (2) Not later than 90 days after the council's first meeting, the council
11 shall issue an initial report that, at a minimum, describes the state of the
12 process by which an individual files a claim for and receives benefits
13 under the employment security law at the time the report is issued and
14 planned improvements to the process. The council may address other
15 matters within the council's purview in the report.

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

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

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

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

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

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

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

1 the applicant, recipient or employer received.

2 (2) In the written strategic staffing plan required under paragraph (1)
3 (A), the secretary shall include an explanation of whether and in what
4 manner the secretary will utilize:

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

7 (B) employees employed by other state agencies; and

8 (C) employees provided by private entities.

9 (n) For purposes of subsection (j)(1)(A), the secretary of labor shall
10 develop the initial written strategic staffing plan not later than six months
11 after the first meeting of the council and provide such plan to the council,
12 the president of the senate, the speaker of the house of representatives and
13 the governor. The secretary shall review the plan at least once per year. If,
14 after reviewing the plan, the secretary determines that the plan should be
15 revised, the secretary shall revise the plan. After each review of the plan as
16 provided under this subsection, the secretary shall provide the most recent
17 version of the plan to the council, the president of the senate, the speaker
18 of the house of representatives and the governor. The secretary shall post
19 the most recent version of the plan on a publicly accessible website
20 maintained by the secretary.

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

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

25 New Sec. 2. (a) It is the intent of the legislature that, in order to
26 accomplish the mission of collecting state employment security taxes,
27 processing unemployment insurance benefit claims and paying benefits,
28 the department of labor's information technology system shall be
29 continually developed, customized, enhanced and upgraded. The purpose
30 of this section is to ensure the state's unemployment insurance program is
31 utilizing current technology and features to protect the sensitive data
32 required in the unemployment insurance benefit and tax systems relating
33 to program integrity, system efficiency and customer service experience.

34 (b) The legislature finds that, as a result of the vulnerabilities exposed
35 in the legacy unemployment insurance system by the COVID-19 pandemic
36 unemployment insurance crisis, a new system shall be fully designed,
37 implemented and administered by the department of labor not later than
38 December 31, 2022.

39 (c) The information technology system, technology and platform
40 shall include, but not be limited to, the following components, as defined
41 by the unemployment compensation modernization and improvement
42 council established by section 1, and amendments thereto, in consultation
43 with the secretary:

- 1 (1) Component-centric architecture;
- 2 (2) configurability;
- 3 (3) results-driven customer empowerment;
- 4 (4) extensibility;
- 5 (5) reporting;
- 6 (6) adaptable and scalable platform;
- 7 (7) enterprise service bus;
- 8 (8) version control;
- 9 (9) change control;
- 10 (10) multi-speed information technology;
- 11 (11) data migration or data architecture; and
- 12 (12) legacy integration.
- 13 (d) The new system shall include, but not be limited to, the following
- 14 features and benefits, as defined by the unemployment compensation
- 15 modernization and improvement council established by section 1, and
- 16 amendments thereto, in consultation with the secretary:
 - 17 (1) Benefit claims and payment management, including:
 - 18 (A) Claims management;
 - 19 (B) eligibility and payment processes;
 - 20 (C) monetary and non-monetary determinations;
 - 21 (D) overpayment and collections management;
 - 22 (E) fraud prevention; and
 - 23 (F) accounting and auditing;
 - 24 (2) integrated tax management functionality, including:
 - 25 (A) Account registration;
 - 26 (B) tax and wage reports;
 - 27 (C) adjustments and payments;
 - 28 (D) delinquencies and collections; and
 - 29 (E) tax audit assignments; and
 - 30 (3) tax performance systems, including:
 - 31 (A) Comprehensive appeals filing and tracking;
 - 32 (B) appeal filing and management;
 - 33 (C) hearings and decisions;
 - 34 (D) correspondence and notices;
 - 35 (E) integrated workflow;
 - 36 (F) self-service features;
 - 37 (G) federal reporting; and
 - 38 (H) automated work opportunity tax credit eligibility determination.
- 39 (e) The secretary shall implement and utilize all program integrity
- 40 elements and guidance issued by the United States department of labor and
- 41 the national association of state workforce agencies, including the integrity
- 42 data hub, within 60 days of the issuance of such guidance. The secretary
- 43 shall implement and utilize the following specific program integrity

1 elements:

- 2 (1) Social security administration cross-matching for the purpose of
3 validating social security numbers supplied by a claimant;
- 4 (2) checking of new hire records against the national directorate of
5 new hires to verify eligibility;
- 6 (3) verification of immigration status or citizenship and confirmation
7 of benefit applicant information through the systematic alien verification
8 for entitlement program;
- 9 (4) comparison of applicant information to local, state and federal
10 prison databases through incarceration cross-matches;
- 11 (5) detection of duplicate claims by applicants filed in other states or
12 other unemployment insurance programs through utilization of the
13 interstate connection network, interstate benefits cross-match, the state
14 identification inquiry state claims and overpayment file and the interstate
15 benefits 8606 application for overpayment recoveries for Kansas claims
16 filed from a state other than Kansas;
- 17 (6) identification of internet protocol addresses linked to multiple
18 claims or to claims filed outside of the United States; and
- 19 (7) use of data mining and data analytics to detect and prevent fraud
20 when a claim is filed, and on an ongoing basis throughout the lifecycle of a
21 claim, by using current and future functionalities to include suspicious
22 actor repository, suspicious email domains, foreign internet protocol
23 addresses, multi-state cross-match, identity verification, fraud alert
24 systems and other assets provided by the unemployment insurance
25 integrity center.
- 26 (f) The secretary, on a scheduled basis, shall cross check new and
27 active unemployment insurance claims against the cross-check programs
28 described in subsection (e). If the secretary receives information
29 concerning an individual approved for benefits that indicates a change in
30 circumstances that may affect eligibility, the secretary shall review the
31 individual's case and act in accordance with the law.
- 32 (g) The department of labor shall have the authority to execute a
33 memorandum of understanding with any department, agency or agency
34 division for information required to be shared between agencies pursuant
35 to the provisions of this section. Such rules and regulations shall be
36 adopted within 12 months of the effective date of this act.
- 37 (h) The secretary of labor shall adopt rules and regulations necessary
38 for the purposes of carrying out this section. Such rules and regulations
39 shall be adopted within 12 months of the effective date of this act.
- 40 (i) The secretary of labor shall provide an annual status update and
41 progress report regarding the requirements of this section to the
42 unemployment compensation modernization and improvement council and
43 the legislative coordinating council.

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

3 New Sec. 3. (a) The secretary of labor shall include information on an
4 unemployment insurance benefit claimant's initial notice of determination
5 that informs the claimant of the federal and state tax consequences of any
6 unemployment compensation benefits that the claimant may receive. This
7 information shall include an explanation regarding the department of labor
8 income tax withholding agreement form designated as K-BEN 233 or a
9 successor form, tax withholding elections and the tax withholding process
10 and estimated weekly and maximum claim year federal and state tax
11 withholding amounts.

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

14 New Sec. 4. (a) The secretary of labor shall post trust fund
15 computations and data as required by subsection (b) on a publicly
16 accessible website maintained by the secretary as follows:

17 (1) The secretary shall post and maintain the computations and data
18 for each of the most recent 20 fiscal years within 120 days of the effective
19 date of this act; and

20 (2) for the fiscal year beginning on July 1, 2021, and each fiscal year
21 thereafter, the secretary shall post the trust fund computations and data for
22 the fiscal year to the website within 120 days of such fiscal year's closing
23 date.

24 (b) The computations and data to be posted shall include:

25 (1) Distributions of taxable wages by experience factor for each state
26 fiscal year including the following information:

27 (A) The rate group;

28 (B) the reserve ratio lower limit;

29 (C) the number of accounts;

30 (D) the taxable wages by fiscal year;

31 (E) a summary of active positive eligible accounts with the number of
32 accounts and fiscal year taxable wages;

33 (F) a summary of active ineligible accounts with the number of
34 accounts and fiscal year taxable wages;

35 (G) a summary of active negative accounts with the number of
36 accounts and fiscal year taxable wages; and

37 (H) a summary of terminated and inactive accounts with the number
38 of accounts and fiscal year taxable wages; and

39 (2) an average high cost benefit rate summary, including:

40 (A) The average high cost benefit rate currently in effect; and

41 (B) the benefit cost rate for the fiscal years used to calculate the
42 average high benefit cost rate.

43 (c) This section shall be a part of and supplemental to the

1 employment security law.

2 New Sec. 5. (a) (1) The secretary of labor and the secretary of
3 commerce shall jointly establish and implement the my reemployment
4 plan as provided in this section. For purposes of this section, "my
5 reemployment plan" means a program jointly established and implemented
6 by the Kansas department of labor and the Kansas department of
7 commerce that provides enhanced reemployment services to Kansans
8 receiving unemployment insurance benefits.

9 (2) Not later than the fourth week of benefits provided to an
10 unemployment insurance claimant, the secretary of labor shall request the
11 claimant's resume or work history, a skills list and a job search plan. The
12 secretary shall offer and provide, when requested, assistance to the
13 claimant in developing a resume or work history, a skills list and a job
14 search plan through collaboration with the Kansasworks workforce
15 system.

16 (3) The secretary of labor shall share labor market information and
17 current available job positions with unemployment insurance claimants.
18 The secretary of labor may collaborate with the secretary of commerce and
19 Kansasworks or other state or federal agencies with job availability
20 information in obtaining or sharing such information. The secretary shall
21 match open job positions with claimants based on skills and work history
22 and job location that is a reasonable commute from the claimant's
23 residence and communicate the match information to the claimant and to
24 the employer. The secretary of labor shall also consider whether the
25 claimant or a Kansas employer would benefit from the claimant's
26 participation in a work skills training or retraining program as provided by
27 subsection (e) and, if so, provide such information to the employer, if
28 applicable, the claimant and the secretary of commerce.

29 (4) The secretary shall facilitate and monitor the claimant and
30 employer interview process. The secretary shall monitor the results of job
31 matches, including information regarding any claimant who did not attend
32 an interview or did not accept a position that was a reasonable match for
33 the person's work history and skills and was within a reasonable commute
34 from the claimant's residence. The secretary of labor shall contact a
35 claimant who did not attend an interview or did not accept a position and
36 shall consider whether the claimant has failed to meet work search
37 requirements under Kansas law and if benefits should continue to the
38 claimant.

39 (b) The secretary of labor and the secretary of commerce shall jointly
40 implement a work skills training or retraining program for claimants in
41 collaboration with the Kansasworks workforce system. The program shall
42 be developed in collaboration with Kansas employers and other state or
43 federal agencies or organizations as appropriate. The secretary of labor and

1 the secretary of commerce shall seek to obtain or utilize any available
2 federal funds for such program, and to the extent feasible, the secretary of
3 commerce may make current work skills training and retraining programs
4 available to claimants. The secretary of labor may allow claimants to
5 participate in a work skills training or retraining program offered by the
6 secretary of labor, the secretary of commerce or by another state or federal
7 agency in lieu of requiring the claimant to meet job search requirements of
8 the employment security law and the requirements of the my
9 reemployment plan until the number of allowed benefit weeks has expired.
10 A claimant shall participate in such a program for not less than 25 hours
11 per week. The secretary of labor shall monitor claimants who are
12 participating in a work skills training or retraining program to ensure
13 attendance and progress.

14 (c) Claimants who participate in the my reemployment plan or the
15 work skills training or retraining program, as provided by subsection (b),
16 shall meet attendance or progress requirements established by the secretary
17 to continue eligibility for unemployment insurance benefits. Claimants
18 who fail to participate in the my reemployment plan or the work skills
19 training or retraining program after having been required to do so by the
20 secretary shall be disqualified from receiving unemployment benefits until
21 they demonstrate compliance to the secretary. The secretary may continue
22 benefits or reinstate a claimant's eligibility for benefits upon a showing of
23 good cause by the claimant for the failure to meet attendance or progress
24 requirements or the failure to participate in the my reemployment plan or
25 the work skills training or retraining program.

26 (d) The secretary of labor shall provide an annual status update and
27 progress report regarding the requirements of this section to the house
28 committee on commerce, labor and economic development and the senate
29 committee on commerce during the first month of the 2022 regular
30 legislative session and during the first month of each regular legislative
31 session thereafter.

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

34 New Sec. 6. Notwithstanding the provisions of chapter 1 of the 2020
35 Special Session Laws of Kansas, any other statute or any other provision
36 of this act, for the fiscal years ending June 30, 2021, and June 30, 2022, on
37 or before July 15, 2021, the director of the budget shall determine the
38 amount of moneys received by the state that are identified as moneys from
39 the federal government for aid to the state of Kansas for coronavirus relief
40 as appropriated in the following acts that are eligible to be used for
41 employment security, may be expended at the discretion of the state and
42 are unencumbered: (1) The federal CARES act, public law 116-136, the
43 federal coronavirus preparedness and response supplemental appropriation

1 act, 2020, public law 116-123, the federal families first coronavirus
2 response act, public law 116-127, and the federal paycheck protection
3 program and health care enhancement act, public law 116-139; (2) the
4 federal consolidated appropriations act, 2021, public law 116-260; and (3)
5 any other federal law that appropriates moneys to the state for aid for
6 coronavirus relief. Of such identified moneys, the director of the budget
7 shall determine in the aggregate an amount equal to \$450,000,000
8 available in special revenue funds. The director of the budget shall certify
9 the amount so determined from each fund to the director of accounts and
10 reports and, at the same time as such certification is transmitted to the
11 director of accounts and reports, shall transmit a copy of such certification
12 to the director of legislative research. Upon receipt of each such
13 certification, or as soon thereafter as moneys are available, the director of
14 accounts and reports shall transfer an aggregate amount equal to
15 \$450,000,000 from such funds to the employment security fund (296-00-
16 7056-7200) of the department of labor.

17 New Sec. 7. (a) On or before January 31 of each calendar year, the
18 secretary of labor shall transmit to the standing committee on commerce,
19 labor and economic development of the house of representatives or any
20 successor committee, a report, based on information received or developed
21 by the department of labor, concerning the employment security trust fund,
22 unemployment benefit claims and employer contributions to the
23 employment security trust fund. Such report shall contain the following
24 information:

25 (1) The amount of claims for the 12-month period ending on June 30
26 of the previous calendar year;

27 (2) The actual and projected amount of claims for the 12-month
28 period beginning on July 1 of the previous calendar year;

29 (3) the amount of employer contributions for the 12-month period
30 ending on June 30 of the previous calendar year and current employer
31 contribution rates;

32 (4) The actual and projected amount of employer contributions for the
33 12-month period beginning on July 1 of the previous calendar year and
34 ending on June 30 of the current calendar year and projected employer
35 contribution rates for the next succeeding calendar year.

36 (5) the balance of the employment security trust fund on June 30 of
37 the previous calendar year and the current balance of the fund; and

38 (6) the projected balance of the employment security trust fund on
39 June 30 of the current calendar year and on January 1 of the next
40 succeeding calendar year.

41 (b) In arriving at the amount of employer contributions to the
42 employment security trust fund pursuant to subsection (a)(3), and the
43 projected amount of employer contributions pursuant to subsection (a)(4),

1 contributions paid or projected to be paid on or before July 31 following
2 the respective 12-month period ending date of June 30 shall be considered.

3 (c) The secretary may include in the report any recommendations of
4 the secretary regarding changes in contribution rates or the contribution
5 rate tables. If the secretary makes recommendations, the secretary shall
6 include projections of changes to employer contribution rates and to the
7 balance of the employment security trust fund if the secretary's
8 recommendations were adopted by the legislature.

9 (d) The provisions of this section shall not be in effect on and after
10 February 1, 2024.

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

13 Sec. 8. K.S.A. 2020 Supp. 44-703 is hereby amended to read as
14 follows: 44-703. As used in this act, unless the context clearly requires
15 otherwise:

16 (a) (1) "Annual payroll" means the total amount of wages paid or
17 payable by an employer during the calendar year.

18 (2) "Average annual payroll" means the average of the annual
19 payrolls of any employer for the last three calendar years immediately
20 preceding the computation date as hereinafter defined if the employer has
21 been continuously subject to contributions during those three calendar
22 years and has paid some wages for employment during each of such years.
23 In determining contribution rates for the calendar year, if an employer has
24 not been continuously subject to contribution for the three calendar years
25 immediately preceding the computation date but has paid wages subject to
26 contributions during only the two calendar years immediately preceding
27 the computation date, such employer's "average annual payroll" shall be
28 the average of the payrolls for those two calendar years.

29 (3) "Total wages" means the total amount of wages paid or payable
30 by an employer during the calendar year, including that part of
31 remuneration in excess of the limitation prescribed as provided in
32 subsection (o)(1) ~~of this section~~.

33 (b) "Base period" means the first four of the last five completed
34 calendar quarters immediately preceding the first day of an individual's
35 benefit year, except that the base period in respect to combined wage
36 claims means the base period as defined in the law of the paying state.

37 (1) If an individual lacks sufficient base period wages in order to
38 establish a benefit year in the manner set forth above and satisfies the
39 requirements of ~~subsection (g) of K.S.A. 44-705(g) and subsection (hh) of~~
40 K.S.A. 44-703(hh), and amendments thereto, the claimant shall have an
41 alternative base period substituted for the current base period so as not to
42 prevent establishment of a valid claim. For the purposes of this subsection,
43 "alternative base period" means the last four completed quarters

1 immediately preceding the date the qualifying injury occurred. In the event
2 the wages in the alternative base period have been used on a prior claim,
3 then they shall be excluded from the new alternative base period.

4 (2) For the purposes of this chapter, the term "base period" includes
5 the alternative base period.

6 (c) (1) "Benefits" means the money payments payable to an
7 individual, as provided in this act, with respect to such individual's
8 unemployment.

9 (2) "Regular benefits" means benefits payable to an individual under
10 this act or under any other state law, including benefits payable to federal
11 civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85,
12 other than extended benefits.

13 (d) "Benefit year" with respect to any individual, means the period
14 beginning with the first day of the first week for which such individual
15 files a valid claim for benefits, and such benefit year shall continue for one
16 full year. In the case of a combined wage claim, the benefit year shall be
17 the benefit year of the paying state. Following the termination of a benefit
18 year, a subsequent benefit year shall commence on the first day of the first
19 week with respect to which an individual next files a claim for benefits.
20 When such filing occurs with respect to a week ~~which~~ that overlaps the
21 preceding benefit year, the subsequent benefit year shall commence on the
22 first day immediately following the expiration date of the preceding
23 benefit year. Any claim for benefits made in accordance with ~~subsection~~
24 ~~(a)~~ of K.S.A. 44-709(a), and amendments thereto, shall be deemed to be a
25 "valid claim" for the purposes of this subsection if the individual has been
26 paid wages for insured work as required under ~~subsection (e)~~ of K.S.A. 44-
27 705(e), and amendments thereto. Whenever a week of unemployment
28 overlaps two benefit years, such week shall, for the purpose of granting
29 waiting-period credit or benefit payment with respect thereto, be deemed
30 to be a week of unemployment within that benefit year in which the
31 greater part of such week occurs.

32 (e) "Commissioner" or "secretary" means the secretary of labor.

33 (f) (1) "Contributions" means the money payments to the state
34 employment security fund ~~which~~ that are required to be made by
35 employers on account of employment under K.S.A. 44-710, and
36 amendments thereto, and voluntary payments made by employers pursuant
37 to such statute.

38 (2) "Payments in lieu of contributions" means the money payments to
39 the state employment security fund from employers ~~which~~ that are
40 required to make or ~~which~~ that elect to make such payments under
41 ~~subsection (e)~~ of K.S.A. 44-710(e), and amendments thereto.

42 (g) "Employing unit" means any individual or type of organization,
43 including any partnership, association, limited liability company, agency

1 or department of the state of Kansas and political subdivisions thereof,
2 trust, estate, joint-stock company, insurance company or corporation,
3 whether domestic or foreign including nonprofit corporations, or the
4 receiver, trustee in bankruptcy, trustee or successor thereof, or the legal
5 representatives of a deceased person, ~~which~~ that has in its employ one or
6 more individuals performing services for it within this state. All
7 individuals performing services within this state for any employing unit
8 ~~which~~ that maintains two or more separate establishments within this state
9 shall be deemed to be employed by a single employing unit for all the
10 purposes of this act. Each individual employed to perform or to assist in
11 performing the work of any agent or employee of an employing unit shall
12 be deemed to be employed by such employing unit for all the purposes of
13 this act, whether such individual was hired or paid directly by such
14 employing unit or by such agent or employee, provided the employing unit
15 had actual or constructive knowledge of the employment.

16 (h) "Employer" means:

17 (1) (A) Any employing unit for which agricultural labor as defined in
18 subsection (w) ~~of this section~~ is performed and ~~which~~ during any calendar
19 quarter in either the current or preceding calendar year paid remuneration
20 in cash of \$20,000 or more to individuals employed in agricultural labor or
21 for some portion of a day in each of 20 different calendar weeks, whether
22 or not such weeks were consecutive, in either the current or the preceding
23 calendar year, employed in agricultural labor 10 or more individuals,
24 regardless of whether they were employed at the same moment of time.

25 (B) For the purpose of this subsection (h)(1), any individual who is a
26 member of a crew furnished by a crew leader to perform ~~service~~ services
27 in agricultural labor for any other person shall be treated as an employee of
28 such crew leader if:

29 (i) Such crew leader holds a valid certificate of registration under the
30 federal migrant and seasonal agricultural workers protection act or
31 substantially all the members of such crew operate or maintain tractors,
32 mechanized harvesting or cropdusting equipment or any other mechanized
33 equipment, ~~which~~ that is provided by such crew leader; and

34 (ii) such individual is not in the employment of such other person
35 within the meaning of subsection (i) ~~of this section~~.

36 (C) For the purpose of this subsection (h)(1), in the case of any
37 individual who is furnished by a crew leader to perform ~~service~~ services in
38 agricultural labor for any other person and who is not treated as an
39 employee of such crew leader:

40 (i) Such other person and not the crew leader shall be treated as the
41 employer of such individual; and

42 (ii) such other person shall be treated as having paid cash
43 remuneration to such individual in an amount equal to the amount of cash

1 remuneration paid to such individual by the crew leader, either on the crew
2 leader's own behalf or on behalf of such other person, for the ~~service-~~
3 ~~services~~ in agricultural labor performed for such other person.

4 (D) For the purposes of this subsection (h)(1) "crew leader" means an
5 individual who:

6 (i) Furnishes individuals to perform ~~service~~ *services* in agricultural
7 labor for any other person;

8 (ii) pays, either on such individual's own behalf or on behalf of such
9 other person, the individuals so furnished by such individual for the
10 ~~service~~ *services* in agricultural labor performed by them; and

11 (iii) has not entered into a written agreement with such other person
12 under which such individual is designated as an employee of such other
13 person.

14 (2) (A) Any employing unit ~~which that~~ for calendar year 2007 and
15 each calendar year thereafter: (i) In any calendar quarter in either the
16 current or preceding calendar year paid for ~~service~~ *services* in employment
17 wages of \$1,500 or more; (ii) for some portion of a day in each of 20
18 different calendar weeks, whether or not such weeks were consecutive, in
19 either the current or preceding calendar year, had in employment at least
20 one individual, whether or not the same individual was in employment in
21 each such day; or (iii) elects to have an unemployment tax account
22 established at the time of initial registration in accordance with ~~subsection~~
23 ~~(e)~~ of K.S.A. 44-711(c), and amendments thereto.

24 (B) Employment of individuals to perform domestic service or
25 agricultural labor and wages paid for such service or labor shall not be
26 considered in determining whether an employing unit meets the criteria of
27 this subsection (h)(2).

28 (3) Any employing unit for which service is employment as defined
29 in subsection (i)(3)(E) ~~of this section.~~

30 (4) (A) Any employing unit, whether or not it is an employing unit
31 under subsection (g) ~~of this section,~~ ~~which that~~ acquires or in any manner
32 succeeds to: (i) Substantially all of the employing enterprises,
33 organization, trade or business; or (ii) substantially all the assets, of
34 another employing unit ~~which that~~ at the time of such acquisition was an
35 employer subject to this act;

36 (B) any employing unit ~~which that~~ is controlled substantially, either
37 directly or indirectly by legally enforceable means or otherwise, by the
38 same interest or interests, whether or not such interest or interests are an
39 employing unit under subsection (g) ~~of this section,~~ ~~which~~ acquires or in
40 any manner succeeds to a portion of an employer's annual payroll, ~~which~~ is
41 less than 100% of such employer's annual payroll, and ~~which~~ intends to
42 continue the acquired portion as a going business.

43 (5) Any employing unit ~~which that~~ paid cash remuneration of \$1,000

1 or more in any calendar quarter in the current or preceding calendar year to
2 individuals employed in domestic service as defined in subsection (aa) ~~of~~
3 ~~this section.~~

4 (6) Any employing unit ~~which that~~ having become an employer
5 under this subsection (h) has not, under ~~subsection (b) of~~ K.S.A. 44-
6 711(b), and amendments thereto, ceased to be an employer subject to this
7 act.

8 (7) Any employing unit ~~which that~~ has elected to become fully
9 subject to this act in accordance with ~~subsection (c) of~~ K.S.A. 44-711(c),
10 and amendments thereto.

11 (8) Any employing unit not an employer by reason of any other
12 paragraph of this subsection (h), for which within either the current or
13 preceding calendar year services in employment are or were performed
14 with respect to which such employing unit is liable for any federal tax
15 against which credit may be taken for contributions required to be paid
16 into a state unemployment compensation fund; or ~~which that~~, as a
17 condition for approval of this act for full tax credit against the tax imposed
18 by the federal unemployment tax act, is required, pursuant to such act, to
19 be an "employer" under this act.

20 (9) Any employing unit described in section 501(c)(3) of the federal
21 internal revenue code of 1986 ~~which that~~ is exempt from income tax under
22 section 501(a) of the code that had four or more individuals in
23 employment for some portion of a day in each of 20 different weeks,
24 whether or not such weeks were consecutive, within either the current or
25 preceding calendar year, regardless of whether they were employed at the
26 same moment of time.

27 (i) "Employment" means:

28 (1) Subject to the other provisions of this subsection, service,
29 including ~~service~~ services in interstate commerce, performed by:

30 (A) Any active officer of a corporation; or

31 (B) any individual who, under the usual common law rules applicable
32 in determining the employer-employee relationship, has the status of an
33 employee subject to the provisions of subsection (i)(3)(D); or

34 (C) any individual other than an individual who is an employee under
35 subsection (i)(1)(A) or subsection (i)(1)(B) above who performs services
36 for remuneration for any person:

37 (i) As an agent-driver or commission-driver engaged in distributing
38 meat products, vegetable products, fruit products, bakery products,
39 beverages ~~}, other than milk~~, or laundry or dry-cleaning services, for such
40 individual's principal; or

41 (ii) as a traveling or city salesman, other than as an agent-driver or
42 commission-driver, engaged upon a full-time basis in the solicitation on
43 behalf of, and the transmission to, a principal ~~}, except for side-line sales~~

1 activities on behalf of some other person), of orders from wholesalers,
2 retailers, contractors, or operators of hotels, restaurants, or other similar
3 establishments for merchandise for resale or supplies for use in their
4 business operations.

5 For purposes of subsection (i)(1)(C), the term "employment" shall
6 include services described in paragraphs (i) and (ii) above only if:

7 (a) The contract of service contemplates that substantially all of the
8 services are to be performed personally by such individual;

9 (b) the individual does not have a substantial investment in facilities
10 used in connection with the performance of the services—~~or~~ other than in
11 facilities for transportation}; and

12 (c) the services are not in the nature of a single transaction that is not
13 part of a continuing relationship with the person for whom the services are
14 performed.

15 (2) The term "employment" shall include an individual's entire
16 service within the United States, even though performed entirely outside
17 this state if:

18 (A) The service is not localized in any state;

19 (B) the individual is one of a class of employees who are required to
20 travel outside this state in performance of their duties; and

21 (C) the individual's base of operations is in this state, or if there is no
22 base of operations, then the place ~~from which~~ *where* service is directed or
23 controlled is in this state.

24 (3) The term "employment" shall also include:

25 (A) Services performed within this state but not covered by the
26 provisions of subsection (i)(1) or subsection (i)(2) shall be deemed to be
27 employment subject to this act if contributions are not required and paid
28 with respect to such services under an unemployment compensation law of
29 any other state or of the federal government.

30 (B) Services performed entirely without this state, with respect to no
31 part of which contributions are required and paid under an unemployment
32 compensation law of any other state or of the federal government, shall be
33 deemed to be employment subject to this act only if the individual
34 performing such services is a resident of this state and the secretary
35 approved the election of the employing unit for whom such services are
36 performed that the entire service of such individual shall be deemed to be
37 employment subject to this act.

38 (C) Services covered by an arrangement pursuant to ~~subsection (1) of~~
39 K.S.A. 44-714(j), and amendments thereto, between the secretary and the
40 agency charged with the administration of any other state or federal
41 unemployment compensation law, pursuant to which all services
42 performed by an individual for an employing unit are deemed to be
43 performed entirely within this state, shall be deemed to be employment if

1 the secretary has approved an election of the employing unit for whom
2 such services are performed, pursuant to which the entire service of such
3 individual during the period covered by such election is deemed to be
4 insured work.

5 (D) Services performed by an individual for wages or under any
6 contract of hire shall be deemed to be employment subject to this act if the
7 business for which activities of the individual are performed retains not
8 only the right to control the end result of the activities performed, but the
9 manner and means by which the end result is accomplished.

10 (E) ~~Service~~Services performed by an individual in the employ of this
11 state or any instrumentality thereof, any political subdivision of this state
12 or any instrumentality thereof, or in the employ of an Indian tribe, as
13 defined pursuant to section 3306(u) of the federal unemployment tax act,
14 any instrumentality of more than one of the foregoing or any
15 instrumentality ~~which~~ that is jointly owned by this state or a political
16 subdivision thereof or Indian tribes and one or more other states or
17 political subdivisions of this or other states, provided that such service is
18 excluded from "employment" as defined in the federal unemployment tax
19 act by reason of section 3306(c)(7) of that act and is not excluded from
20 "employment" under subsection (i)(4)(A) of this section. For purposes of
21 this section, the exclusions from employment in subsections (i)(4)(A) and
22 (i)(4)(L) shall also be applicable to services performed in the employ of an
23 Indian tribe.

24 (F) ~~Service~~Services performed by an individual in the employ of a
25 religious, charitable, educational or other organization ~~which~~ that is
26 excluded from the term "employment" as defined in the federal
27 unemployment tax act solely by reason of section 3306(c)(8) of that act,
28 and is not excluded from employment under paragraphs (I) through (M) of
29 subsection (i)(4).

30 (G) The term "employment" shall include the ~~service~~ services of an
31 individual who is a citizen of the United States, performed outside the
32 United States except in Canada, in the employ of an American employer ~~;~~
33 other than service ~~which~~ that is deemed "employment" under the
34 provisions of subsection (i)(2) or subsection (i)(3) or the parallel
35 provisions of another state's law), if:

36 (i) The employer's principal place of business in the United States is
37 located in this state; or

38 (ii) the employer has no place of business in the United States, but:

39 (a) The employer is an individual who is a resident of this state;

40 (b) the employer is a corporation which is organized under the laws
41 of this state; or

42 (c) the employer is a partnership or a trust and the number of the
43 partners or trustees who are residents of this state is greater than the

1 number who are residents of any other state; or

2 (iii) none of the criteria of paragraphs (i) and (ii) above of this
3 subsection (i)(3)(G) are met but the employer has elected coverage in this
4 state or, the employer having failed to elect coverage in any state, the
5 individual has filed a claim for benefits, based on such service, under the
6 law of this state.

7 (H) An "American employer," for purposes of subsection (i)(3)(G),
8 means a person who is:

9 (i) An individual who is a resident of the United States;

10 (ii) a partnership if $\frac{2}{3}$ or more of the partners are residents of the
11 United States;

12 (iii) a trust, if all of the trustees are residents of the United States; or

13 (iv) a corporation organized under the laws of the United States or of
14 any state.

15 (I) Notwithstanding subsection (i)(2) ~~of this section~~, all ~~service~~
16 ~~services~~ performed by an officer or member of the crew of an American
17 vessel or American aircraft on or in connection with such vessel or aircraft,
18 if the operating office, from which the operations of such vessel or aircraft
19 operating within, or within and without, the United States are ordinarily
20 and regularly supervised, managed, directed and controlled is within this
21 state.

22 (J) Notwithstanding any other provisions of this subsection (i),
23 ~~service services~~ with respect to which a tax is required to be paid under
24 any federal law imposing a tax against which credit may be taken for
25 contributions required to be paid into a state unemployment compensation
26 fund or ~~which~~ *that* as a condition for full tax credit against the tax imposed
27 by the federal unemployment tax act is required to be covered under this
28 act.

29 (K) Domestic service in a private home, local college club or local
30 chapter of a college fraternity or sorority performed for a person who paid
31 cash remuneration of \$1,000 or more in any calendar quarter in the current
32 calendar year or the preceding calendar year to individuals employed in
33 such domestic service.

34 (4) The term "employment" shall not include: (A) ~~Service Services~~
35 performed in the employ of an employer specified in subsection (h)(3) ~~of~~
36 ~~this section~~ if such service is performed by an individual in the exercise of
37 duties:

38 (i) As an elected official;

39 (ii) as a member of a legislative body, or a member of the judiciary, of
40 a state, political subdivision or of an Indian tribe;

41 (iii) as a member of the state national guard or air national guard;

42 (iv) as an employee serving on a temporary basis in case of fire,
43 storm, snow, earthquake, flood or similar emergency;

1 (v) in a position ~~which~~ *that*, under or pursuant to the laws of this state
2 or tribal law, is designated as a major nontenured policymaking or
3 advisory position or as a policymaking or advisory position the
4 performance of the duties of which ordinarily does not require more than
5 eight hours per week;

6 (B) ~~services~~*services* with respect to which unemployment
7 compensation is payable under an unemployment compensation system
8 established by an act of congress;

9 (C) ~~services~~*services* performed by an individual in the employ of such
10 individual's son, daughter or spouse, and ~~services~~*services* performed by a
11 child under the age of 21 years in the employ of such individual's father or
12 mother;

13 (D) ~~services~~*services* performed in the employ of the United States
14 government or an instrumentality of the United States exempt under the
15 constitution of the United States from the contributions imposed by this
16 act, except that to the extent that the congress of the United States shall
17 permit states to require any instrumentality of the United States to make
18 payments into an unemployment fund under a state unemployment
19 compensation law, all of the provisions of this act shall be applicable to
20 such instrumentalities, and to services performed for such
21 instrumentalities, in the same manner, to the same extent and on the same
22 terms as to all other employers, employing units, individuals and services.
23 If this state shall not be certified for any year by the federal security
24 agency under section 3304(c) of the federal internal revenue code of 1986,
25 the payments required of such instrumentalities with respect to such year
26 shall be refunded by the secretary from the fund in the same manner and
27 within the same period as is provided in ~~subsection (f)~~ of K.S.A. 44-
28 717(h), and amendments thereto, with respect to contributions erroneously
29 collected;

30 (E) ~~services~~*services* covered by an arrangement between the secretary
31 and the agency charged with the administration of any other state or
32 federal unemployment compensation law pursuant to which all services
33 performed by an individual for an employing unit during the period
34 covered by such employing unit's duly approved election, are deemed to
35 be performed entirely within the jurisdiction of such other state or federal
36 agency;

37 (F) ~~services~~*services* performed by an individual under the age of 18 in
38 the delivery or distribution of newspapers or shopping news, not including
39 delivery or distribution to any point for subsequent delivery or
40 distribution;

41 (G) ~~services~~*services* performed by an individual for an employing unit
42 as an insurance agent or as an insurance solicitor, if all such service
43 performed by such individual for such employing unit is performed for

1 remuneration solely by way of commission;

2 (H) ~~services~~services performed in any calendar quarter in the employ
3 of any organization exempt from income tax under section 501(a) of the
4 federal internal revenue code of 1986–(, other than an organization
5 described in section 401(a) or under section 521 of such code), if the
6 remuneration for such service is less than \$50. In construing the
7 application of the term "employment," if services performed during ½ or
8 or more of any pay period by an individual for the person employing such
9 individual constitute employment, all the services of such individual for
10 such period shall be deemed to be employment; but if the services
11 performed during more than ½ of any such pay period by an individual for
12 the person employing such individual do not constitute employment, then
13 none of the services of such individual for such period shall be deemed to
14 be employment. As used in this subsection (i)(4)(H) the term "pay period"
15 means a period–(, of not more than 31 consecutive days), for which a
16 payment of remuneration is ordinarily made to the individual by the person
17 employing such individual. This subsection (i)(4)(H) shall not be
18 applicable with respect to services with respect to which unemployment
19 compensation is payable under an unemployment compensation system
20 established by an act of congress;

21 (I) services performed in the employ of a church or convention or
22 association of churches, or an organization which is operated primarily for
23 religious purposes and which is operated, supervised, controlled, or
24 principally supported by a church or convention or association of
25 churches;

26 (J) ~~services~~services performed by a duly ordained, commissioned, or
27 licensed minister of a church in the exercise of such individual's ministry
28 or by a member of a religious order in the exercise of duties required by
29 such order;

30 (K) ~~services~~services performed in a facility conducted for the purpose
31 of carrying out a program of:

32 (i) Rehabilitation for individuals whose earning capacity is impaired
33 by age or physical or mental deficiency or injury; or

34 (ii) providing remunerative work for individuals who because of their
35 impaired physical or mental capacity cannot be readily absorbed in the
36 competitive labor market, by an individual receiving such rehabilitation or
37 remunerative work;

38 (L) ~~services~~services performed as part of an employment work-relief
39 or work-training program assisted or financed in whole or in part by any
40 federal agency or an agency of a state or political subdivision thereof or of
41 an Indian tribe, by an individual receiving such work relief or work
42 training;

43 (M) ~~services~~services performed by an inmate of a custodial or

1 correctional institution;

2 (N) ~~services~~services performed, in the employ of a school, college, or
3 university, if such service is performed by a student who is enrolled and is
4 regularly attending classes at such school, college or university;

5 (O) ~~services~~services performed by an individual who is enrolled at a
6 nonprofit or public educational institution ~~which~~ that normally maintains a
7 regular faculty and curriculum and normally has a regularly organized
8 body of students in attendance at the place where its educational activities
9 are carried on as a student in a full-time program, taken for credit at such
10 institution, ~~which~~ that combines academic instruction with work
11 experience, if such service is an integral part of such program, and such
12 institution has so certified to the employer, except that this subsection (i)
13 (4)(O) shall not apply to service performed in a program established for or
14 on behalf of an employer or group of employers;

15 (P) ~~services~~services performed in the employ of a hospital licensed,
16 certified or approved by the secretary of health and environment, if such
17 service is performed by a patient of the hospital;

18 (Q) services performed as a qualified real estate agent. As used in this
19 subsection (i)(4)(Q) the term "qualified real estate agent" means any
20 individual who is licensed by the Kansas real estate commission as a
21 salesperson under the real estate brokers' and salespersons' license act and
22 for whom:

23 (i) Substantially all of the remuneration, whether or not paid in cash,
24 for the services performed by such individual as a real estate salesperson is
25 directly related to sales or other output, including the performance of
26 services, rather than to the number of hours worked; and

27 (ii) the services performed by the individual are performed pursuant
28 to a written contract between such individual and the person for whom the
29 services are performed and such contract provides that the individual will
30 not be treated as an employee with respect to such services for state tax
31 purposes;

32 (R) services performed for an employer by an extra in connection
33 with any phase of motion picture or television production or television
34 commercials for less than 14 days during any calendar year. As used in this
35 subsection, the term "extra" means an individual who pantomimes in the
36 background, adds atmosphere to the set and performs such actions without
37 speaking and "employer" shall not include any employer ~~which~~ that is a
38 governmental entity or any employer described in section 501(c)(3) of the
39 federal internal revenue code of 1986 ~~which~~ that is exempt from income
40 taxation under section 501(a) of the code;

41 (S) services performed by an oil and gas contract pumper. As used in
42 this subsection (i)(4)(S), "oil and gas contract pumper" means a person
43 performing pumping and other services on one or more oil or gas leases, or

1 on both oil and gas leases, relating to the operation and maintenance of
2 such oil and gas leases, on a contractual basis for the operators of such oil
3 and gas leases and "services" shall not include services performed for a
4 governmental entity or any organization described in section 501(c)(3) of
5 the federal internal revenue code of 1986—~~which that~~ is exempt from
6 income taxation under section 501(a) of the code;

7 (T) service not in the course of the employer's trade or business
8 performed in any calendar quarter by an employee, unless the cash
9 remuneration paid for such service is \$200 or more and such service is
10 performed by an individual who is regularly employed by such employer
11 to perform such service. For purposes of this paragraph, an individual shall
12 be deemed to be regularly employed by an employer during a calendar
13 quarter only if:

14 (i) On each of some 24 days during such quarter such individual
15 performs for such employer for some portion of the day service not in the
16 course of the employer's trade or business; or

17 (ii) such individual was regularly employed, as determined under
18 subparagraph (i), by such employer in the performance of such service
19 during the preceding calendar quarter.

20 Such excluded service shall not include any services performed for an
21 employer—~~which that~~ is a governmental entity or any employer described in
22 section 501(c)(3) of the federal internal revenue code of 1986—~~which that~~ is
23 exempt from income taxation under section 501(a) of the code;

24 (U) service which is performed by any person who is a member of a
25 limited liability company and—~~which that~~ is performed as a member or
26 manager of that limited liability company; and

27 (V) services performed as a qualified direct seller. The term "direct
28 seller" means any person if:

29 (i) Such person:

30 (a) Is engaged in the trade or business of selling or soliciting the sale
31 of consumer products to any buyer on a buy-sell basis or a deposit-
32 commission basis for resale, by the buyer or any other person, in the home
33 or otherwise rather than in a permanent retail establishment; or

34 (b) is engaged in the trade or business of selling or soliciting the sale
35 of consumer products in the home or otherwise than in a permanent retail
36 establishment;

37 (ii) substantially all the remuneration whether or not paid in cash for
38 the performance of the services described in subparagraph (i) is directly
39 related to sales or other output including the performance of services rather
40 than to the number of hours worked;

41 (iii) the services performed by the person are performed pursuant to a
42 written contract between such person and the person for whom the services
43 are performed and such contract provides that the person will not be

1 treated as an employee for federal and state tax purposes;

2 (iv) for purposes of this act, a sale or a sale resulting exclusively from
3 a solicitation made by telephone, mail, or other telecommunications
4 method, or other nonpersonal method does not satisfy the requirements of
5 this subsection;

6 (W) ~~services~~services performed as an election official or election
7 worker, if the amount of remuneration received by the individual during
8 the calendar year for services as an election official or election worker is
9 less than \$1,000;

10 (X) ~~services~~services performed by agricultural workers who are aliens
11 admitted to the United States to perform labor pursuant to section 1101 (a)
12 (15)(H)(ii)(a) of the immigration and nationality act; ~~and~~

13 (Y) ~~services~~services performed by an owner-operator of a motor
14 vehicle that is leased or contracted to a licensed motor carrier with the
15 services of a driver and is not treated under the terms of the lease
16 agreement or contract with the licensed motor carrier as an employee for
17 purposes of the federal insurance contribution act, 26 U.S.C. § 3101 et
18 seq., the federal social security act, 42 U.S.C. § 301 et seq., the federal
19 unemployment tax act, 26 U.S.C. § 3301 et seq., and the federal statutes
20 prescribing income tax withholding at the source, 26 U.S.C. § 3401 et seq.
21 Employees or agents of the owner-operator shall not be considered
22 employees of the licensed motor carrier for purposes of employment
23 security taxation or compensation. As used in this subsection (Y), the
24 following definitions apply: (i) "Motor vehicle" means any automobile,
25 truck-trailer, semitrailer, tractor, motor bus or any other self-propelled or
26 motor-driven vehicle used upon any of the public highways of Kansas for
27 the purpose of transporting persons or property; (ii) "licensed motor
28 carrier" means any person, firm, corporation or other business entity that
29 holds a certificate of convenience and necessity or a certificate of public
30 service from the state corporation commission or is required to register
31 motor carrier equipment pursuant to 49 U.S.C. § 14504; and (iii) "owner-
32 operator" means a person, firm, corporation or other business entity that is
33 the owner of a single motor vehicle that is driven exclusively by the owner
34 under a lease agreement or contract with a licensed motor carrier; *and*

35 (Z) *services performed by a petroleum landman on a contractual basis.*
36 *As used in this subparagraph, "petroleum landman" means an individual*
37 *performing services on a contractual basis who is not an individual who is*
38 *an active officer of a corporation as described in subsection (i)(1)(A) that*
39 *may include:*

- 40 (i) *Negotiating for the acquisition or divestiture of mineral rights;*
41 (ii) *negotiating business agreements that provide exploration for or*
42 *development of minerals;*
43 (iii) *determining ownership in minerals through the research of*

1 *public and private records;*

2 *(iv) reviewing the status of title, curing title defects, providing title*
3 *due diligence and otherwise reducing title risk associated with ownership*
4 *in minerals or the acquisition and divestiture of mineral properties;*

5 *(v) managing rights or obligations derived from ownership of*
6 *interests in minerals; or*

7 *(vi) unitizing or pooling of interests in minerals. For purposes of this*
8 *subparagraph, "minerals" includes oil, natural gas or petroleum.*
9 *"Services" shall not include services performed for a governmental entity*
10 *or any organization described in section 501(c)(3) of the federal internal*
11 *revenue code of 1986, or a federally recognized Indian tribe that is exempt*
12 *from income taxation under section 501(a) of the code.*

13 (j) "Employment office" means any office operated by this state and
14 maintained by the secretary of labor for the purpose of assisting persons to
15 become employed.

16 (k) "Fund" means the employment security fund established by this
17 act, to which all contributions and reimbursement payments required and
18 from which all benefits provided under this act shall be paid and including
19 all money received from the federal government as reimbursements
20 pursuant to section 204 of the federal-state extended compensation act of
21 1970, and amendments thereto.

22 (l) "State" includes, in addition to the states of the United States of
23 America, any dependency of the United States, the Commonwealth of
24 Puerto Rico, the District of Columbia and the Virgin Islands.

25 (m) "Unemployment." An individual shall be deemed "unemployed"
26 with respect to any week during which such individual performs no
27 services and with respect to which no wages are payable to such
28 individual, or with respect to any week of less than full-time work if the
29 wages payable to such individual with respect to such week are less than
30 such individual's weekly benefit amount.

31 (n) "Employment security administration fund" means the fund
32 established by this act, from which administrative expenses under this act
33 shall be paid.

34 (o) "Wages" means all compensation for services, including
35 commissions, bonuses, back pay and the cash value of all remuneration,
36 including benefits, paid in any medium other than cash. The reasonable
37 cash value of remuneration in any medium other than cash, shall be
38 estimated and determined in accordance with rules and regulations
39 prescribed by the secretary. Compensation payable to an individual ~~which~~
40 *that* has not been actually received by that individual within 21 days after
41 the end of the pay period in which the compensation was earned shall be
42 considered to have been paid on the 21st day after the end of that pay
43 period. Effective January 1, 1986, gratuities, including tips received from

1 persons other than the employing unit, shall be considered wages when
2 reported in writing to the employer by the employee. Employees must
3 furnish a written statement to the employer, reporting all tips received if
4 they total \$20 or more for a calendar month whether the tips are received
5 directly from a person other than the employer or are paid over to the
6 employee by the employer. This includes amounts designated as tips by a
7 customer who uses a credit card to pay the bill. Notwithstanding the other
8 provisions of this subsection (o), wages paid in back pay awards or
9 settlements shall be allocated to the week or weeks and reported in the
10 manner as specified in the award or agreement, or, in the absence of such
11 specificity in the award or agreement, such wages shall be allocated to the
12 week or weeks in which such wages, in the judgment of the secretary,
13 would have been paid. The term "wages" shall not include:

14 (1) That part of the remuneration—~~which~~ *that* has been paid in a
15 calendar year to an individual by an employer or such employer's
16 predecessor in excess of \$3,000 for all calendar years prior to 1972, in
17 excess of \$4,200 for the calendar years 1972 to 1977, inclusive, in excess
18 of \$6,000 for calendar years 1978 to 1982, inclusive, in excess of \$7,000
19 for the calendar year 1983, in excess of \$8,000 for the calendar years 1984
20 to 2014, inclusive, and in excess of \$12,000 with respect to employment
21 during calendar year 2015, and in excess of \$14,000 with respect to all
22 calendar years thereafter, except that if the definition of the term "wages"
23 as contained in the federal unemployment tax act is amended to include
24 remuneration paid to an individual by an employer under the federal act in
25 excess of \$8,000 for the calendar years 1984-2014, inclusive, and in
26 excess of \$12,000 with respect to employment during calendar year 2015,
27 and in excess of \$14,000 with respect to all calendar years thereafter,
28 wages shall include remuneration paid in a calendar year to an individual
29 by an employer subject to this act or such employer's predecessor with
30 respect to employment during any calendar year up to an amount equal to
31 the dollar limitation specified in the federal unemployment tax act. For the
32 purposes of this subsection (o)(1), the term "employment" shall include
33 service constituting employment under any employment security law of
34 another state or of the federal government;

35 (2) the amount of any payment—~~(, including any amount paid by an~~
36 ~~employing unit for insurance or annuities, or into a fund, to provide for~~
37 ~~any such payment),~~ made to, or on behalf of, an employee or any of such
38 employee's dependents under a plan or system established by an employer
39 ~~which~~ *that* makes provisions for employees generally, for a class or classes
40 of employees or for such employees or a class or classes of employees and
41 their dependents, on account of: (A) Sickness or accident disability, except
42 in the case of any payment made to an employee or such employee's
43 dependents, this subparagraph shall exclude from the term "wages" only

1 payments ~~which~~ *that* are received under a workers compensation law. Any
2 third party ~~which~~ *that* makes a payment included as wages by reason of
3 this subparagraph (2)(A) shall be treated as the employer with respect to
4 such wages; or (B) medical and hospitalization expenses in connection
5 with sickness or accident disability; or (C) death;

6 (3) any payment on account of sickness or accident disability, or
7 medical or hospitalization expenses in connection with sickness or
8 accident disability, made by an employer to, or on behalf of, an employee
9 after the expiration of six calendar months following the last calendar
10 month in which the employee worked for such employer;

11 (4) any payment made to, or on behalf of, an employee or such
12 employee's beneficiary:

13 (A) From or to a trust described in section 401(a) of the federal
14 internal revenue code of 1986 ~~which~~ *that* is exempt from tax under section
15 501(a) of the federal internal revenue code of 1986 at the time of such
16 payment unless such payment is made to an employee of the trust as
17 remuneration for services rendered as such employee and not as a
18 beneficiary of the trust;

19 (B) under or to an annuity plan ~~which~~ *that*, at the time of such
20 payment, is a plan described in section 403(a) of the federal internal
21 revenue code of 1986;

22 (C) under a simplified employee pension as defined in section 408(k)
23 (1) of the federal internal revenue code of 1986, other than any
24 contribution described in section 408(k)(6) of the federal internal revenue
25 code of 1986;

26 (D) under or to an annuity contract described in section 403(b) of the
27 federal internal revenue code of 1986, other than a payment for the
28 purchase of such contract ~~which~~ *that* was made by reason of a salary
29 reduction agreement whether evidenced by a written instrument or
30 otherwise;

31 (E) under or to an exempt governmental deferred compensation plan
32 as defined in section 3121(v)(3) of the federal internal revenue code of
33 1986;

34 (F) to supplement pension benefits under a plan or trust described in
35 any of the foregoing provisions of this subparagraph to take into account
36 some portion or all of the increase in the cost of living, as determined by
37 the secretary of labor, since retirement but only if such supplemental
38 payments are under a plan ~~which~~ *that* is treated as a welfare plan under
39 section 3(2)(B)(ii) of the federal employee retirement income security act
40 of 1974; or

41 (G) under a cafeteria plan within the meaning of section 125 of the
42 federal internal revenue code of 1986;

43 (5) the payment by an employing unit ~~(,~~ without deduction from the

- 1 remuneration of the employee), of the tax imposed upon an employee
2 under section 3101 of the federal internal revenue code of 1986 with
3 respect to remuneration paid to an employee for domestic service in a
4 private home of the employer or for agricultural labor;
- 5 (6) remuneration paid in any medium other than cash to an employee
6 for service not in the course of the employer's trade or business;
- 7 (7) remuneration paid to or on behalf of an employee if and to the
8 extent that at the time of the payment of such remuneration it is reasonable
9 to believe that a corresponding deduction is allowable under section 217 of
10 the federal internal revenue code of 1986 relating to moving expenses;
- 11 (8) any payment or series of payments by an employer to an
12 employee or any of such employee's dependents ~~which~~ that is paid:
- 13 (A) Upon or after the termination of an employee's employment
14 relationship because of (i) death or (ii) retirement for disability; and
- 15 (B) under a plan established by the employer ~~which~~ that makes
16 provisions for employees generally, a class or classes of employees or for
17 such employees or a class or classes of employees and their dependents,
18 other than any such payment or series of payments ~~which~~ that would have
19 been paid if the employee's employment relationship had not been so
20 terminated;
- 21 (9) remuneration for agricultural labor paid in any medium other than
22 cash;
- 23 (10) any payment made, or benefit furnished, to or for the benefit of
24 an employee if at the time of such payment or such furnishing it is
25 reasonable to believe that the employee will be able to exclude such
26 payment or benefit from income under section 129 of the federal internal
27 revenue code of 1986 ~~which~~ that relates to dependent care assistance
28 programs;
- 29 (11) the value of any meals or lodging furnished by or on behalf of
30 the employer if at the time of such furnishing it is reasonable to believe
31 that the employee will be able to exclude such items from income under
32 section 119 of the federal internal revenue code of 1986;
- 33 (12) any payment made by an employer to a survivor or the estate of
34 a former employee after the calendar year in which such employee died;
- 35 (13) any benefit provided to or on behalf of an employee if at the time
36 such benefit is provided it is reasonable to believe that the employee will
37 be able to exclude such benefit from income under section 74(c), 117 or
38 132 of the federal internal revenue code of 1986;
- 39 (14) any payment made, or benefit furnished, to or for the benefit of
40 an employee, if at the time of such payment or such furnishing it is
41 reasonable to believe that the employee will be able to exclude such
42 payment or benefit from income under section 127 of the federal internal
43 revenue code of 1986 relating to educational assistance to the employee; or

1 (15) any payment made to or for the benefit of an employee if at the
2 time of such payment it is reasonable to believe that the employee will be
3 able to exclude such payment from income under section 106(d) of the
4 federal internal revenue code of 1986 relating to health savings accounts.

5 Nothing in any paragraph of subsection (o), other than paragraph (1),
6 shall exclude from the term "wages": (1) Any employer contribution under
7 a qualified cash or deferred arrangement, as defined in section 401(k) of
8 the federal internal revenue code of 1986, to the extent that such
9 contribution is not included in gross income by reason of section 402(a)(8)
10 of the federal internal revenue code of 1986; or (2) any amount treated as
11 an employer contribution under section 414(h)(2) of the federal internal
12 revenue code of 1986.

13 Any amount deferred under a nonqualified deferred compensation plan
14 shall be taken into account for purposes of this section as of the later of
15 when the services are performed or when there is no substantial risk of
16 forfeiture of the rights to such amount. Any amount taken into account as
17 wages by reason of this paragraph, and the income attributable thereto,
18 shall not thereafter be treated as wages for purposes of this section. For
19 purposes of this paragraph, the term "nonqualified deferred compensation
20 plan" means any plan or other arrangement for deferral of compensation
21 other than a plan described in subsection (o)(4).

22 (p) "Week" means such period or periods of seven consecutive
23 calendar days, as the secretary may by rules and regulations prescribe.

24 (q) "Calendar quarter" means the period of three consecutive calendar
25 months ending March 31, June 30, September 30 or December 31, or the
26 equivalent thereof as the secretary may by rules and regulations prescribe.

27 (r) "Insured work" means employment for employers.

28 (s) "Approved training" means any vocational training course or
29 course in basic education skills, including a job training program
30 authorized under the federal workforce investment act of 1998, approved
31 by the secretary or a person or persons designated by the secretary.

32 (t) "American vessel" or "American aircraft" means any vessel or
33 aircraft documented or numbered or otherwise registered under the laws of
34 the United States; and any vessel or aircraft ~~which~~ *that* is neither
35 documented or numbered or otherwise registered under the laws of the
36 United States nor documented under the laws of any foreign country, if its
37 crew performs service solely for one or more citizens or residents of the
38 United States or corporations organized under the laws of the United
39 States or of any state.

40 (u) "Institution of higher education," for the purposes of this section,
41 means an educational institution ~~which~~ *that*:

42 (1) Admits as regular students only individuals having a certificate of
43 graduation from a high school, or the recognized equivalent of such a

1 certificate;

2 (2) is legally authorized in this state to provide a program of
3 education beyond high school;

4 (3) provides an educational program for which it awards a bachelor's
5 or higher degree, or provides a program ~~which~~ that is acceptable for full
6 credit toward such a degree, a program of postgraduate or postdoctoral
7 studies, or a program of training to prepare students for gainful
8 employment in a recognized occupation; and

9 (4) is a public or other nonprofit institution.

10 Notwithstanding any of the foregoing provisions of this subsection (u),
11 all colleges and universities in this state are institutions of higher education
12 for purposes of this section, except that no college, university, junior
13 college or other postsecondary school or institution ~~which~~ that is operated
14 by the federal government or any agency thereof shall be an institution of
15 higher education for purposes of the employment security law.

16 (v) "Educational institution" means any institution of higher
17 education, as defined in subsection (u) ~~of this section~~, or any institution,
18 except private for profit institutions, in which participants, trainees or
19 students are offered an organized course of study or training designed to
20 transfer to them knowledge, skills, information, doctrines, attitudes or
21 abilities from, by or under the guidance of an instructor or teacher and
22 ~~which~~ that is approved, licensed or issued a permit to operate as a school
23 by the state department of education or other government agency that is
24 authorized within the state to approve, license or issue a permit for the
25 operation of a school or to an Indian tribe in the operation of an
26 educational institution. The courses of study or training ~~which~~ that an
27 educational institution offers may be academic, technical, trade or
28 preparation for gainful employment in a recognized occupation.

29 (w) (1) "Agricultural labor" means any remunerated service:

30 (A) On a farm, in the employ of any person, in connection with
31 cultivating the soil, or in connection with raising or harvesting any
32 agricultural or horticultural commodity, including the raising, shearing,
33 feeding, caring for, training, and management of livestock, bees, poultry,
34 and furbearing animals and wildlife.

35 (B) In the employ of the owner or tenant or other operator of a farm,
36 in connection with the operating, management, conservation,
37 improvement, or maintenance of such farm and its tools and equipment, or
38 in salvaging timber or clearing land of brush and other debris left by a
39 hurricane, if the major part of such service is performed on a farm.

40 (C) In connection with the production or harvesting of any
41 commodity defined as an agricultural commodity in section (15)(g) of the
42 agricultural marketing act, as amended ~~46 Stat. 1500, sec. 3; 12 U.S.C. §~~
43 1141j), or in connection with the ginning of cotton, or in connection with

1 the operation or maintenance of ditches, canals, reservoirs or waterways,
2 not owned or operated for profit, used exclusively for supplying and
3 storing water for farming purposes.

4 (D) (i) In the employ of the operator of a farm in handling, planting,
5 drying, packing, packaging, processing, freezing, grading, storing, or
6 delivering to storage or to market or to a carrier for transportation to
7 market, in its unmanufactured state, any agricultural or horticultural
8 commodity; but only if such operator produced more than $\frac{1}{2}$ of the
9 commodity with respect to which such service is performed;

10 (ii) in the employ of a group of operators of farms~~(, or a cooperative~~
11 ~~organization of which such operators are members)~~, in the performance of
12 ~~service services~~ described in paragraph (i) above of this subsection (w)(1)
13 (D), but only if such operators produced more than $\frac{1}{2}$ of the commodity
14 with respect to which such service is performed;

15 (iii) the provisions of paragraphs (i) and (ii) ~~above of this subsection~~
16 ~~(w)(1)(D)~~ shall not be deemed to be applicable with respect to ~~service~~
17 ~~services~~ performed in connection with commercial canning or commercial
18 freezing or in connection with any agricultural or horticultural commodity
19 after its delivery to a terminal market for distribution for consumption.

20 (E) On a farm operated for profit if such service is not in the course
21 of the employer's trade or business.

22 (2) "Agricultural labor" does not include ~~service services~~ performed
23 prior to January 1, 1980, by an individual who is an alien admitted to the
24 United States to perform service in agricultural labor pursuant to sections
25 214(c) and 101(a)(15)(H) of the federal immigration and nationality act.

26 (3) As used in this subsection ~~(w)~~, the term "farm" includes stock,
27 dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations,
28 ranches, nurseries, ranges, greenhouses, or other similar structures used
29 primarily for the raising of agricultural or horticultural commodities, and
30 orchards.

31 (4) For the purpose of this section, if an employing unit does not
32 maintain sufficient records to separate agricultural labor from other
33 employment, all services performed during any pay period by an
34 individual for the person employing such individual shall be deemed to be
35 agricultural labor if services performed during $\frac{1}{2}$ or more of such pay
36 period constitute agricultural labor; but if the services performed during
37 more than $\frac{1}{2}$ of any such pay period by an individual for the person
38 employing such individual do not constitute agricultural labor, then none
39 of the services of such individual for such period shall be deemed to be
40 agricultural labor. As used in this subsection ~~(w)~~, the term "pay period"
41 means a period of not more than 31 consecutive days for which a payment
42 of remuneration is ordinarily made to the individual by the person
43 employing such individual.

1 (x) "Reimbursing employer" means any employer who makes
2 payments in lieu of contributions to the employment security fund as
3 provided in ~~subsection (e) of~~ K.S.A. 44-710(e), and amendments thereto.

4 (y) "Contributing employer" means any employer other than a
5 reimbursing employer or rated governmental employer.

6 (z) "Wage combining plan" means a uniform national arrangement
7 approved by the United States secretary of labor in consultation with the
8 state unemployment compensation agencies and in which this state shall
9 participate, whereby wages earned in one or more states are transferred to
10 another state, called the "paying state," and combined with wages in the
11 paying state, if any, for the payment of benefits under the laws of the
12 paying state and as provided by an arrangement so approved by the United
13 States secretary of labor.

14 (aa) "Domestic service" means ~~any service~~ *services* for a person in
15 the operation and maintenance of a private household, local college club or
16 local chapter of a college fraternity or sorority, as distinguished from
17 service as an employee in the pursuit of an employer's trade, occupation,
18 profession, enterprise or vocation.

19 (bb) "Rated governmental employer" means any governmental entity
20 ~~which that~~ elects to make payments as provided by K.S.A. 44-710d, and
21 amendments thereto.

22 (cc) "Benefit cost payments" means payments made to the
23 employment security fund by a governmental entity electing to become a
24 rated governmental employer.

25 (dd) "Successor employer" means any employer, as described in
26 subsection (h) ~~of this section, which that~~ acquires or in any manner
27 succeeds to: (1) Substantially all of the employing enterprises,
28 organization, trade or business of another employer; or (2) substantially all
29 the assets of another employer.

30 (ee) "Predecessor employer" means an employer, as described in
31 subsection (h) ~~of this section~~, who has previously operated a business or
32 portion of a business with employment to which another employer has
33 succeeded.

34 (ff) "Lessor employing unit" means any independently established
35 business entity ~~which that~~ engages in the business of providing leased
36 employees to a client lessee.

37 (gg) "Client lessee" means any individual, organization, partnership,
38 corporation or other legal entity leasing employees from a lessor
39 employing unit.

40 (hh) "Qualifying injury" means a personal injury by accident arising
41 out of and in the course of employment within the coverage of the Kansas
42 workers compensation act, K.S.A. 44-501 et seq., and amendments
43 thereto.

1 Sec. 9. K.S.A. 2020 Supp. 44-704 is hereby amended to read as
2 follows: 44-704. (a) *Payment of benefits.* All benefits provided herein shall
3 be payable from the fund. All benefits shall be paid through the secretary
4 of labor, in accordance with such rules and regulations as the secretary
5 may adopt. Benefits based on service in employment defined in K.S.A. 44-
6 703(i)(3)(E) and (i)(3)(F), and amendments thereto, shall be payable in the
7 same amount, on the same terms and subject to the same conditions as
8 compensation payable on the basis of other service subject to this act
9 except as provided in K.S.A. 44-705(e) and 44-711(e), and amendments
10 thereto.

11 (b) *Determined weekly benefit amount.* An individual's determined
12 weekly benefit amount shall be an amount equal to 4.25% of the
13 individual's total wages for insured work paid during that calendar quarter
14 of the individual's base period that such total wages were highest, subject
15 to the following limitations:

16 (1) If an individual's determined weekly benefit amount is less than
17 the minimum weekly benefit amount, it shall be raised to such minimum
18 weekly benefit amount;

19 (2) if the individual's determined weekly benefit amount is more than
20 the maximum weekly benefit amount, it shall be reduced to the maximum
21 weekly benefit amount; and

22 (3) if the individual's determined weekly benefit amount is not a
23 multiple of \$1, it shall be reduced to the next lower multiple of \$1.

24 (c) *Maximum weekly benefit amount.* (1) For initial claims effective
25 prior to July 1, 2015, the maximum weekly benefit amount shall be
26 determined as follows: On July 1 of each year, the secretary shall
27 determine the maximum weekly benefit amount by computing 60% of the
28 average weekly wages paid to employees in insured work during the
29 previous calendar year and shall, prior to that date, announce the
30 maximum weekly benefit amount so determined, by publication in the
31 Kansas register. Such computation shall be made by dividing the gross
32 wages reported as paid for insured work during the previous calendar year
33 by the product of the average of mid-month employment during such
34 calendar year multiplied by 52. The maximum weekly benefit amount so
35 determined and announced for the twelve-month period shall apply only to
36 those claims filed in that period qualifying for maximum payment under
37 the foregoing formula. All claims qualifying for payment at the maximum
38 weekly benefit amount shall be paid at the maximum weekly benefit
39 amount in effect when the benefit year to which the claim relates was first
40 established, notwithstanding a change in the maximum benefit amount for
41 a subsequent twelve-month period. If the computed maximum weekly
42 benefit amount is not a multiple of \$1, then the computed maximum
43 weekly benefit amount shall be reduced to the next lower multiple of \$1.

1 (2) For initial claims effective on or after July 1, 2015, the maximum
2 weekly benefit amount shall be determined as follows: On July 1 of each
3 year, the secretary shall determine the maximum weekly benefit amount by
4 computing 55% of the average weekly wages paid to employees in insured
5 work during the previous calendar year, but not to be less than \$474, and
6 shall, prior to that date, announce the maximum weekly benefit amount so
7 determined by publication in the Kansas register. Such computation shall
8 be made by dividing the gross wages reported as paid for insured work
9 during the previous calendar year by the product of the average of mid-
10 month employment during such calendar year multiplied by 52. The
11 maximum weekly benefit amount so determined and announced for the
12 12-month period shall apply only to those claims filed in that period
13 qualifying for maximum payment under the foregoing formula. All claims
14 qualifying for payment at the maximum weekly benefit amount shall be
15 paid at the maximum weekly benefit amount in effect when the benefit
16 year to which the claim relates was first established, notwithstanding a
17 change in the maximum benefit amount for a subsequent 12-month period.
18 If the computed maximum weekly benefit amount is not a multiple of \$1,
19 then the computed maximum weekly benefit amount shall be reduced to
20 the next lower multiple of \$1.

21 (d) *Minimum weekly benefit amount.* The minimum weekly benefit
22 amount payable to any individual shall be 25% of the maximum weekly
23 benefit amount effective as of the beginning of the individual's benefit
24 year. If the minimum weekly benefit amount is not a multiple of \$1 it shall
25 be reduced to the next lower multiple of \$1. The minimum weekly benefit
26 amount shall apply through the benefit year, notwithstanding a change in
27 the minimum weekly benefit amount.

28 (e) All claims qualifying for payment at the maximum weekly benefit
29 amount shall be paid at the maximum weekly benefit amount in effect
30 when the benefit year to which the claim relates was first established,
31 notwithstanding a subsequent change in the maximum weekly benefit
32 amount.

33 (f) *Weekly benefit payable.* Each eligible individual who is
34 unemployed with respect to any week, except as to final payment, shall be
35 paid with respect to such week a benefit in an amount equal to such
36 individual's determined weekly benefit amount, less that part of the wage,
37 if any, payable to such individual with respect to such week that is in
38 excess of the amount that is equal to 25% of such individual's determined
39 weekly benefit amount, and if the resulting amount is not a multiple of \$1,
40 it shall be reduced to the next lower multiple of \$1.

41 (1) For the purposes of this section, remuneration received under the
42 following circumstances shall be construed as wages:

43 (A) Vacation or holiday pay that was attributable to a week that the

1 individual claimed benefits; and

2 (B) severance pay, if paid as scheduled, and all other employment
3 benefits within the employer's control, as defined in subsection (f)(3), if
4 continued as though the severance had not occurred, except as set out in
5 subsection (f)(2)(C).

6 (2) For the purposes of this section, remuneration received under the
7 following circumstances shall not be construed as wages:

8 (A) Remuneration received for services performed on a public
9 assistance work project;

10 (B) severance pay, in lieu of notice, under the provisions of public
11 law 100-379, the federal worker adjustment and retraining notification act,
12 29 U.S.C. §§ 2101 through 2109;

13 (C) all other severance pay, separation pay, bonuses, wages in lieu of
14 notice or remuneration of a similar nature that is payable after the
15 severance of the employment relationship, except as set out in subsection
16 (f)(1)(B); and

17 (D) moneys received as federal social security payments.

18 (3) For the purposes of this subsection, "employment benefits within
19 the employer's control" means benefits offered by the employer to
20 employees that are employee benefit plans as defined by section 3 of the
21 federal employee retirement income security act of 1974, as amended, 29
22 U.S.C. § 1002, and that the employer has the option to continue to provide
23 to the employee after the last day that the employee worked for that
24 employer.

25 (g) *Duration of benefits.* Any otherwise eligible individual shall be
26 entitled during any benefit year to a total amount of benefits equal to
27 whichever is the lesser of 26 times such individual's weekly benefit
28 amount, or $\frac{1}{3}$ of such individual's wages for insured work paid during such
29 individual's base period. Such total amount of benefits, if not a multiple of
30 \$1, shall be reduced to the next lower multiple of \$1.

31 (h) For the purposes of this section, wages shall be counted as "wages
32 for insured work" for benefit purposes with respect to any benefit year
33 only if such benefit year begins subsequent to the date when the
34 employing unit by whom such wages were paid has satisfied the
35 conditions of K.S.A. 44-703(h), and amendments thereto, with respect to
36 becoming an employer.

37 (i) Notwithstanding any other provisions of this section to the
38 contrary, any benefit otherwise payable for any week shall be reduced by
39 the amount of any separation, termination, severance or other similar
40 payment paid to a claimant at the time of or after the claimant's separation
41 from employment during the benefit year.

42 (1) If any payment pursuant to this subsection is paid with respect to
43 a month, then the amount deemed to be received with respect to any week

1 during such month shall be computed by multiplying such monthly
2 amount by 12 and dividing the product by 52. If there is no designation of
3 the period with respect to which payments to an individual are made under
4 this section, then an amount equal to such individual's normal weekly
5 wage shall be attributed to and deemed paid with respect to the first and
6 each succeeding week following payment of the separation pay to the
7 individual until such amount so paid is exhausted.

8 (2) If benefits for any week, when reduced as provided in this
9 subsection, result in an amount that is not a multiple of \$1, such benefits
10 shall be rounded to the next lower multiple of \$1.

11 (3) Notwithstanding the reemployment provisions of K.S.A. 44-
12 705(e), and amendments thereto, any individual whose benefit amount is
13 completely reduced under this subsection for 52 or more weeks shall, upon
14 exhaustion of the separation pay, be entitled to a new benefit year based
15 upon entitlement from the base period of the claim that was reduced.

16 (j) Except as provided in subsection (k), for weeks commencing on
17 and after January 1, 2014, *and ending before April 1, 2021*, if at the
18 beginning of the benefit year, the three-month seasonally adjusted average
19 unemployment rate for the state of Kansas is: (1) Less than 4.5%, a
20 claimant shall be eligible for a maximum of 16 weeks of benefits; (2) at
21 least 4.5% but less than 6%, a claimant shall be eligible for a maximum of
22 20 weeks of benefits; or (3) at least 6%, a claimant shall be eligible for a
23 maximum of 26 weeks of benefits.

24 (k) On and after the effective date of this act, a claimant shall be
25 eligible for a maximum of 26 weeks of benefits. A claimant who filed a
26 new claim on or after January 1, 2020, and before the effective date of this
27 act shall be eligible for a maximum of 26 weeks of benefits including the
28 number of weeks of benefits received after January 1, 2020, and before the
29 effective date of this act. This subsection shall not apply to initial claims
30 effective on and after April 1, 2021.

31 (l) *For weeks commencing on and after April 1, 2021, if at the*
32 *beginning of the benefit year, the three-month seasonally adjusted average*
33 *unemployment rate for the state of Kansas is: (1) Less than 5%, a claimant*
34 *shall be eligible for a maximum of 16 weeks of benefits; (2) at least 5%*
35 *but less than 6%, a claimant shall be eligible for a maximum of 20 weeks*
36 *of benefits; or (3) at least 6%, a claimant shall be eligible for a maximum*
37 *of 26 weeks of benefits.*

38 (m) *Upon the secretary of labor's receipt of notification that the*
39 *claimant has become employed, the secretary shall notify the secretary of*
40 *the department for children and families in order that the secretary for*
41 *children and families may determine the claimant's eligibility for state or*
42 *federal benefits provided or facilitated by the department for children and*
43 *families. The department of labor and the department for children and*

1 *families shall enter into a memorandum of understanding that shall*
2 *provide for the transfer of information as provided in this subsection.*

3 Sec. 10. K.S.A. 2020 Supp. 44-705 is hereby amended to read as
4 follows: 44-705. Except as provided by K.S.A. 44-757, and amendments
5 thereto, an unemployed individual shall be eligible to receive benefits with
6 respect to any week only if the secretary, or a person or persons designated
7 by the secretary, finds that:

8 (a) The claimant has registered for work at and thereafter continued
9 to report at an employment office in accordance with rules and regulations
10 adopted by the secretary, except that, subject to the provisions of K.S.A.
11 44-704(a), and amendments thereto, the secretary may adopt rules and
12 regulations that waive or alter either or both of the requirements of this
13 subsection.

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

16 (c) (1) The claimant is able to perform the duties of such claimant's
17 customary occupation or the duties of other occupations that the claimant
18 is reasonably fitted by training or experience, and is available for work, as
19 demonstrated by the claimant's pursuit of the full course of action most
20 reasonably calculated to result in the claimant's reemployment except that,
21 notwithstanding any other provisions of this section, an unemployed
22 claimant otherwise eligible for benefits shall not become ineligible for
23 benefits:

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

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

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

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

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

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

39 (2) *The secretary shall develop and implement procedures to address*
40 *claimants who refuse to return to suitable work or refuse to accept an offer*
41 *of suitable work without good cause. Such procedures shall include the*
42 *receipt and processing of job refusal reports from employers, the*
43 *evaluation of such reports in consideration of the claimant's work history*

1 *and skills and suitability of the offered employment and guidelines for a*
2 *determination of whether the claimant shall remain eligible for*
3 *unemployment benefits or has failed to meet the work search requirements*
4 *of this subsection or the requirements of K.S.A. 2020 Supp. 44-706(c), and*
5 *amendments thereto. In determining whether the employment offered is*
6 *suitable, the secretary's considerations shall include whether the*
7 *employment offers wages comparable to the claimant's recent employment*
8 *and work duties that correspond to the claimant's education level and*
9 *previous work experience. The secretary shall also consider whether the*
10 *employment offers wages of at least the amount of the claimant's*
11 *maximum weekly benefits.*

12 *(3) To facilitate the requirements of paragraph (2), the secretary shall*
13 *provide readily accessible means for employers to notify the department*
14 *when a claimant refuses to return to work or refuses an offer of*
15 *employment, including by telephone, email or an online web portal.*
16 *Nothing in this subsection shall be construed as to require an employer to*
17 *report such job refusals to the department.*

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

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

28 *(B) a statement that the claimant has been or may be disqualified and*
29 *the claimant's right to collect benefits has been or may be terminated for*
30 *refusal to return to work or accept suitable work without good cause, as*
31 *provided by this subsection and K.S.A. 2020 Supp. 44-706(c), and*
32 *amendments thereto;*

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

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

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

41 *(d) (1) Except as provided further, the claimant has been unemployed*
42 *for a waiting period of one week or the claimant is unemployed and has*
43 *satisfied the requirement for a waiting period of one week under the shared*

1 work unemployment compensation program as provided in K.S.A. 44-
2 757(k)(4), and amendments thereto, and that period of one week, in either
3 case, occurs within the benefit year that includes the week for which the
4 claimant is claiming benefits. No week shall be counted as a week of
5 unemployment for the purposes of this subsection:

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

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

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

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

16 (i) New claims by claimants who become unemployed as a result of
17 an employer terminating business operations within this state, declaring
18 bankruptcy or initiating a work force reduction pursuant to public law 100-
19 379, the federal worker adjustment and retraining notification act, 29
20 U.S.C. §§ 2101 through 2109, as amended; or

21 (ii) new claims filed on or after April 5, 2020, through December 26,
22 2020, in accordance with the families first coronavirus response act, public
23 law 116-127 and the federal CARES act, public law 116-136.

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

26 (3) If the waiting week requirement of paragraph (1) applies, a
27 claimant shall become eligible to receive compensation for the waiting
28 period of one week, pursuant to paragraph (1), upon completion of three
29 weeks of unemployment consecutive to such waiting period. This
30 paragraph shall not apply to initial claims effective on and after April 1,
31 2021.

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

43 (f) The claimant participates in reemployment services, such as job

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

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

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

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

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

20 Sec. 11. K.S.A. 2020 Supp. 44-709 is hereby amended to read as
21 follows: 44-709. (a) *Filing*. Claims for benefits shall be made in
22 accordance with rules and regulations adopted by the secretary. The
23 secretary shall furnish a copy of such rules and regulations to any
24 individual requesting them. Each employer shall: (1) Post and maintain
25 printed statements furnished by the secretary without cost to the employer
26 in places readily accessible to individuals in the service of the employer;
27 and (2) provide any other notification to individuals in the service of the
28 employer as required by the secretary pursuant to the families first
29 coronavirus response act, public law 116-127.

30 (b) *Determination*. (1) Except as otherwise provided in this
31 paragraph, a representative designated by the secretary, and hereinafter
32 referred to as an examiner, shall promptly examine the claim and, on the
33 basis of the facts found by the examiner, shall determine whether or not
34 the claim is valid. If the examiner determines that the claim is valid, the
35 examiner shall determine the first day of the benefit year, the weekly
36 benefit amount and the total amount of benefits payable with respect to the
37 benefit year. If the claim is determined to be valid, the examiner shall send
38 a notice to the last employing unit who shall respond within 10 days by
39 providing the examiner all requested information including all information
40 required for a decision under K.S.A. 44-706, and amendments thereto. The
41 information may be submitted by the employing unit in person at an
42 employment office of the secretary or by mail, by telefacsimile machine or
43 by electronic mail. If the required information is not submitted or

1 postmarked within a response time limit of 10 days after the examiner's
2 notice was sent, the employing unit shall be deemed to have waived its
3 standing as a party to the proceedings arising from the claim and shall be
4 barred from protesting any subsequent decisions about the claim by the
5 secretary, a referee, the employment security board of review or any court,
6 except that the employing unit's response time limit may be waived or
7 extended by the examiner or upon appeal, if timely response was
8 impossible due to excusable neglect. In any case in which the payment or
9 denial of benefits will be determined by the provisions of K.S.A. 44-
10 706(d), and amendments thereto, the examiner shall promptly transmit the
11 claim to a special examiner designated by the secretary to make a
12 determination on the claim after the investigation as the special examiner
13 deems necessary. The parties shall be promptly notified of the special
14 examiner's decision and any party aggrieved by the decision may appeal to
15 the referee as provided in subsection (c). The claimant and the claimant's
16 most recent employing unit shall be promptly notified of the examiner's or
17 special examiner's decision.

18 (2) The examiner may for good cause reconsider the examiner's
19 decision and shall promptly notify the claimant and the most recent
20 employing unit of the claimant, that the decision of the examiner is to be
21 reconsidered, except that no reconsideration shall be made after the
22 termination of the benefit year.

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

32 (c) *Appeals.* Unless the appeal is withdrawn, a referee, after affording
33 the parties reasonable opportunity for fair hearing, shall affirm or modify
34 the findings of fact and decision of the examiner or special examiner. The
35 parties shall be duly notified of the referee's decision, together with the
36 reasons for the decision. The decision shall be final, notwithstanding the
37 provisions of any other statute, unless a further appeal to the employment
38 security board of review is filed within 16 calendar days after the mailing
39 of the decision to the parties' last known addresses or, if notice is not by
40 mail, within 16 calendar days after the delivery of the decision, except that
41 the time limit for appeal may be waived or extended by the referee or
42 board of review if a timely response was impossible due to excusable
43 neglect.

1 (d) *Referees*. The secretary shall appoint, in accordance with K.S.A.
2 44-714(c), and amendments thereto, one or more referees to hear and
3 decide disputed claims.

4 (e) *Time, computation and extension*. In computing the period of time
5 for an employing unit response or for appeals under this section from the
6 examiner's or the special examiner's determination or from the referee's
7 decision, the day of the act, event or default from which the designated
8 period of time begins to run shall not be included. The last day of the
9 period shall be included unless it is a Saturday, Sunday or legal holiday, in
10 which event the period runs until the end of the next day that is not a
11 Saturday, Sunday or legal holiday.

12 (f) *Board of review*.~~(1)~~ There is hereby created an employment
13 security board of review, hereinafter referred to as the board,~~consisting~~.

14 (1) (A) *Except as provided in subparagraph (B), the board shall*
15 *consist of three members. Each member of the board shall be appointed for*
16 *a term of four years as provided in this subsection. Not more than two*
17 *members of the board shall belong to the same political party.*

18 (B) *On the effective date of this act, the board shall consist of six*
19 *members. The six-member board shall consist of the following: (i) Three*
20 *members appointed under subparagraph (A); and (ii) three members*
21 *appointed for a term that shall expire upon the expiration of this*
22 *subparagraph. Each member of the board appointed under subparagraph*
23 *(B)(ii) shall be appointed as provided in this subsection. Not more than*
24 *four members of the six-member board shall belong to the same political*
25 *party. The provisions of this subparagraph shall expire on June 30, 2024.*

26 (2) When a vacancy on the employment security board of review
27 occurs, the workers compensation and employment security boards
28 nominating committee established under K.S.A. 44-551, and amendments
29 thereto, shall convene and submit a nominee to the governor for
30 appointment to each vacancy on the employment security board of review,
31 subject to confirmation by the senate as provided by K.S.A. 75-4315b, and
32 amendments thereto. The governor shall either: (A) Accept and submit to
33 the senate for confirmation the person nominated by the nominating
34 committee; or (B) reject the nomination and request the nominating
35 committee to nominate another person for that position. Except as
36 provided by K.S.A. 46-2601, and amendments thereto, no person
37 appointed to the employment security board of review, whose appointment
38 is subject to confirmation by the senate, shall exercise any power, duty or
39 function as a member until confirmed by the senate.

40 (3) No member of the employment security board of review shall
41 serve more than two consecutive terms. *This paragraph shall not apply to*
42 *members of the board appointed under subsection (f)(1)(B)(ii). The service*
43 *of a board member appointed under subsection (f)(1)(B)(ii) shall not*

1 *constitute a term as contemplated in this paragraph.*

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

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

14 (6) The employment security board of review shall organize annually
15 by the election of a chairperson from among its members. The chairperson
16 shall serve in that capacity for a term of one year and until a successor is
17 elected. *For the purpose of hearing and determining cases, the board*
18 *members may sit in panels. A board panel shall consist of three members*
19 *with not more than two members belonging to the same political party.*
20 *The chairperson may sit as a member of a panel and shall preside over*
21 *such panel. When the chairperson is not a member of a hearing panel, the*
22 *chairperson shall appoint a member of the panel to preside.* The board or
23 board panel shall meet on the first Monday of each month or on the call of
24 the chairperson or any two members of the board at the place designated.
25 The secretary of labor shall appoint an executive secretary of the board
26 and the executive secretary or the executive secretary's designee shall
27 attend the meetings of the board and board panels.

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

40 (8) ~~Two~~ *A simple majority of the members of the employment security*
41 *board of review or board panel shall constitute a quorum and no action of*
42 *the board or board panel shall be valid unless it has the concurrence of at*
43 *least two a majority of its members. A vacancy on the board shall not*

1 impair the right of a quorum to exercise all the rights and perform all the
2 duties of the board.

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

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

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

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

43 (k) In any proceeding or hearing conducted under this section, a party

1 to the proceeding or hearing may appear before a referee or the
2 employment security board of review *or board panel* either personally or
3 by means of a designated representative to present evidence and to state
4 the position of the party. Hearings may be conducted in person, by
5 telephone or other means of electronic communication. The hearing shall
6 be conducted by telephone or other means of electronic communication if
7 none of the parties requests an in-person hearing. If ~~only one~~ a party
8 requests an in-person hearing, the referee *or board or board panel* shall
9 have the discretion ~~of requiring~~ *to deny the request in the absence of good*
10 *cause shown for the request by the requesting party. If a request for an in-*
11 *person hearing is granted, the referee or board or board panel shall have*
12 *the discretion to require* all parties to appear in person or allow the party
13 not requesting an in-person hearing to appear by telephone or other means
14 of electronic communication. The notice of hearing shall include notice to
15 the parties of their right to request an in-person hearing and instructions on
16 how to make the request.

17 Sec. 12. K.S.A. 2020 Supp. 44-710 is hereby amended to read as
18 follows: 44-710. (a) *Payment.* Contributions shall accrue and become
19 payable by each contributing employer for each calendar year that the
20 contributing employer is subject to the employment security law with
21 respect to wages paid for employment. Such contributions shall become
22 due and be paid by each contributing employer to the secretary for the
23 employment security fund in accordance with such rules and regulations as
24 the secretary may adopt and shall not be deducted, in whole or in part,
25 from the wages of individuals in such employer's employ. In the payment
26 of any contributions, a fractional part of \$.01 shall be disregarded unless it
27 amounts to \$.005 or more, in which case it shall be increased to \$.01.
28 Should contributions for any calendar quarter be less than \$5, no payment
29 shall be required.

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

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

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

43 (2) (A) Benefits paid in benefit years established by valid new claims

1 shall not be charged to the account of a contributing employer or rated
2 governmental employer who is a base period employer if the examiner
3 finds that claimant was separated from the claimant's most recent
4 employment with such employer under any of the following conditions: (i)
5 Discharged for misconduct or gross misconduct connected with the
6 individual's work; (ii) leaving work voluntarily without good cause
7 attributable to the claimant's work or the employer; or (iii) discharged from
8 an employer directly impacted by COVID-19 in accordance with the
9 families first coronavirus response act, public law 116-127.

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

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

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

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

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

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

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

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

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

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

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

17 *(I) Contributing employers, rated governmental employers and*
18 *reimbursing employers shall be held harmless for and shall not be*
19 *required to reimburse the state for claims or benefits paid that have been*
20 *identified as fraudulent or as an improper payment, as defined in K.S.A.*
21 *2020 Supp. 44-710b(e)(2), and amendments thereto, by the contributing*
22 *employer, rated governmental employer or reimbursing employer and*
23 *reported to the secretary, unless the secretary determines the claims are*
24 *not fraudulent or improper as provided by K.S.A. 44-710b(b)(2)(A), and*
25 *amendments thereto. The time limitation for disputing a claim or an*
26 *appeal of a claim as provided by this section, or by any other provision of*
27 *the employment security law, shall not apply to identifications of fraud*
28 *reported to the secretary for claims or benefits paid during the period*
29 *beginning on March 15, 2020, through December 31, 2022. Contributing*
30 *employers, rated governmental employers and reimbursing employers*
31 *shall be refunded or credited, in the discretion of the employer, as*
32 *provided by K.S.A. 44-710b(b), and amendments thereto, for any claims or*
33 *benefits paid that have been reported as fraudulent.*

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

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

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

42 (C) For purposes of this paragraph:

43 (i) "Erroneous payment" means a payment that but for the failure by

1 the employer or the employer's agent with respect to the claim for
2 unemployment compensation, would not have been made; and

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

11 (D) Determinations of the secretary prohibiting the relief of charges
12 pursuant to this section shall be subject to appeal or protest as other
13 determinations of the agency with respect to the charging of employer
14 accounts.

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

17 (4) The examiner shall notify any base period employer whose
18 account will be charged with benefits paid following the filing of a valid
19 new claim and a determination by the examiner based on all information
20 relating to the claim contained in the records of the division of
21 employment security. Such notice shall become final and benefits charged
22 to the base period employer's account in accordance with the claim unless
23 within 10 calendar days from the date the notice was sent, the base period
24 employer requests in writing that the examiner reconsider the
25 determination and furnishes any required information in accordance with
26 the secretary's rules and regulations. In a similar manner, a notice of an
27 additional claim followed by the first payment of benefits with respect to
28 the benefit year, filed by an individual during a benefit year after a period
29 in such year during which such individual was employed, shall be given to
30 any base period employer of the individual who has requested such a
31 notice within 10 calendar days from the date the notice of the valid new
32 claim was sent to such base period employer. For purposes of this
33 subsection (c)(3), if the required information is not submitted or
34 postmarked within a response time limit of 10 days after the base period
35 employer notice was sent, the base period employer shall be deemed to
36 have waived its standing as a party to the proceedings arising from the
37 claim and shall be barred from protesting any subsequent decisions about
38 the claim by the secretary, a referee, the board of review or any court,
39 except that the base period employer's response time limit may be waived
40 or extended by the examiner or upon appeal, if timely response was
41 impossible due to excusable neglect. The examiner shall notify the
42 employer of the reconsidered determination, which shall be subject to
43 appeal or further reconsideration, in accordance with the provisions of

1 K.S.A. 44-709, and amendments thereto.

2 (5) *Time, computation and extension.* In computing the period of time
3 for a base period employer response or appeals under this section from the
4 examiner's or the special examiner's determination or from the referee's
5 decision, the day of the act, event or default from which the designated
6 period of time begins to run shall not be included. The last day of the
7 period shall be included unless it is a Saturday, Sunday or legal holiday, in
8 which event the period runs until the end of the next day that is not a
9 Saturday, Sunday or legal holiday.

10 (d) *Pooled fund.* All contributions and payments in lieu of
11 contributions and benefit cost payments to the employment security fund
12 shall be pooled and available to pay benefits to any individual entitled
13 thereto under the employment security law, regardless of the source of
14 such contributions or payments in lieu of contributions or benefit cost
15 payments.

16 (e) *Election to become reimbursing employer; payment in lieu of*
17 *contributions.* (1) Any governmental entity, Indian tribes or tribal units,
18 (subdivisions, subsidiaries or business enterprises wholly owned by such
19 Indian tribes), for which services are performed as described in K.S.A. 44-
20 703(i)(3)(E), and amendments thereto, or any nonprofit organization or
21 group of nonprofit organizations described in section 501(c)(3) of the
22 federal internal revenue code of 1986 that is exempt from income tax
23 under section 501(a) of such code, that becomes subject to the
24 employment security law may elect to become a reimbursing employer
25 under this subsection (e)(1) and agree to pay the secretary for the
26 employment security fund an amount equal to the amount of regular
27 benefits and $\frac{1}{2}$ of the extended benefits paid that are attributable to service
28 in the employ of such reimbursing employer, except that each reimbursing
29 governmental employer, Indian tribes or tribal units shall pay an amount
30 equal to the amount of regular benefits and extended benefits paid for
31 weeks of unemployment beginning after December 31, 1978, for
32 governmental employers and December 21, 2000, for Indian tribes or
33 tribal units to individuals for weeks of unemployment that begin during the
34 effective period of such election.

35 (A) Any employer identified in this subsection (e)(1) may elect to
36 become a reimbursing employer for a period encompassing not less than
37 four complete calendar years if such employer files with the secretary a
38 written notice of such election within the 30-day period immediately
39 following January 1 of any calendar year or within the 30-day period
40 immediately following the date when a determination of subjectivity to the
41 employment security law is issued, whichever occurs later.

42 (B) Any employer that makes an election to become a reimbursing
43 employer in accordance with subparagraph (A) will continue to be liable

1 for payments in lieu of contributions until such employer files with the
2 secretary a written notice terminating its election not later than 30 days
3 prior to the beginning of the calendar year for which such termination shall
4 first be effective.

5 (C) Any employer identified in this subsection (e)(1) that has
6 remained a contributing employer and has been paying contributions under
7 the employment security law for a period subsequent to January 1, 1972,
8 may change to a reimbursing employer by filing with the secretary not
9 later than 30 days prior to the beginning of any calendar year a written
10 notice of election to become a reimbursing employer. Such election shall
11 not be terminable by the employer for four complete calendar years.

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

16 (E) The secretary, in accordance with such rules and regulations as
17 the secretary may adopt, shall notify each employer identified in
18 subsection (e)(1) of any determination that the secretary may make of its
19 status as an employer and of the effective date of any election that it makes
20 to become a reimbursing employer and of any termination of such
21 election. Such determinations shall be subject to reconsideration, appeal
22 and review in accordance with the provisions of K.S.A. 44-710b, and
23 amendments thereto.

24 (2) *Reimbursement reports and payments.* Payments in lieu of
25 contributions shall be made in accordance with the provisions of
26 subparagraph (A) by all reimbursing employers except the state of Kansas.
27 Each reimbursing employer shall report total wages paid during each
28 calendar quarter by filing quarterly wage reports with the secretary that
29 shall be filed by the last day of the month following the close of each
30 calendar quarter. Wage reports are deemed filed as of the date they are
31 placed in the United States mail.

32 (A) At the end of each calendar quarter, or at the end of any other
33 period as determined by the secretary, the secretary shall bill each
34 reimbursing employer, except the state of Kansas: (i) An amount to be paid
35 that is equal to the full amount of regular benefits plus $\frac{1}{2}$ of the amount of
36 extended benefits paid during such quarter or other prescribed period that
37 is attributable to service in the employ of such reimbursing employer; and
38 (ii) for weeks of unemployment beginning after December 31, 1978, each
39 reimbursing governmental employer and December 21, 2000, for Indian
40 tribes or tribal units shall be certified an amount to be paid that is equal to
41 the full amount of regular benefits and extended benefits paid during such
42 quarter or other prescribed period that is attributable to service in the
43 employ of such reimbursing governmental employer.

1 (B) Payment of any bill rendered under subparagraph (A) shall be
2 made not later than 30 days after such bill was mailed to the last known
3 address of the reimbursing employer, or otherwise was delivered to such
4 reimbursing employer, unless there has been an application for review and
5 redetermination in accordance with subparagraph (D).

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

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

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

38 (F) Failure of the Indian tribe or any tribal unit thereof to make
39 required payments, including assessments of interest and penalties, after
40 all collection activities deemed necessary by the secretary have been
41 exhausted, will cause services performed by such tribe to not be treated as
42 employment for purposes of K.S.A. 44-703(i)(3)(E), and amendments
43 thereto. If an Indian tribe fails to make payments required under this

1 section, including assessments of interest and penalties, within 90 days of
2 a final notice of delinquency, the secretary shall immediately notify the
3 United States internal revenue service and the United States department of
4 labor. The secretary may determine that any Indian tribe that loses
5 coverage pursuant to this paragraph may have services performed on
6 behalf of such tribe again deemed "employment" if all contributions,
7 payments in lieu of contributions, penalties and interest have been paid.

8 (G) In the discretion of the secretary, any employer who elects to
9 become liable for payments in lieu of contributions and any nonprofit
10 organization or group of nonprofit organizations described in section
11 501(c)(3) of the federal internal revenue code of 1986 or governmental
12 reimbursing employer or Indian tribe or tribal unit who is delinquent in
13 filing reports or in making payments of amounts certified by the secretary
14 under this section shall be required within 60 days after the effective date
15 of such election, in the case of an eligible employer so electing, or after the
16 date of notification to the delinquent employer under this subsection (e)(2)
17 (G), in the case of a delinquent employer, to execute and file with the
18 secretary a surety bond, except that the employer may elect, in lieu of a
19 surety bond, to deposit with the secretary money or securities as approved
20 by the secretary or to purchase and deliver to an escrow agent a certificate
21 of deposit to guarantee payment. The amount of the bond, deposit or
22 escrow agreement required by this subsection (e)(2)(G) shall not exceed
23 5.4% of the organization's taxable wages paid for employment by the
24 eligible employer during the four calendar quarters immediately preceding
25 the effective date of the election or the date of notification, in the case of a
26 delinquent employer. If the employer did not pay wages in each of such
27 four calendar quarters, the amount of the bond or deposit shall be as
28 determined by the secretary. Upon the failure of an employer to comply
29 with this subsection (e)(2)(G) within the time limits imposed or to
30 maintain the required bond or deposit, the secretary may terminate the
31 election of such eligible employer or delinquent employer, as the case may
32 be, to make payments in lieu of contributions, and such termination shall
33 be effective for the current and next calendar year.

34 (H) The state of Kansas shall make reimbursement payments
35 quarterly at a fiscal year rate that shall be based upon: (i) The available
36 balance in the state's reimbursing account as of December 31 of each
37 calendar year; (ii) the historical unemployment experience of all covered
38 state agencies during prior years; (iii) the estimate of total covered wages
39 to be paid during the ensuing calendar year; (iv) the applicable fiscal year
40 rate of the claims processing and auditing fee under K.S.A. 75-3798, and
41 amendments thereto; and (v) actuarial and other information furnished to
42 the secretary by the secretary of administration. In accordance with K.S.A.
43 75-3798, and amendments thereto, the claims processing and auditing fees

1 charged to state agencies shall be deducted from the amounts collected for
2 the reimbursement payments under this paragraph (H) prior to making the
3 quarterly reimbursement payments for the state of Kansas. The fiscal year
4 rate shall be expressed as a percentage of covered total wages and shall be
5 the same for all covered state agencies. The fiscal year rate for each fiscal
6 year will be certified in writing by the secretary to the secretary of
7 administration on July 15 of each year and such certified rate shall become
8 effective on the July 1 immediately following the date of certification. A
9 detailed listing of benefit charges applicable to the state's reimbursing
10 account shall be furnished quarterly by the secretary to the secretary of
11 administration and the total amount of charges deducted from previous
12 reimbursing payments made by the state. On January 1 of each year, if it is
13 determined that benefit charges exceed the amount of prior reimbursing
14 payments, an upward adjustment shall be made therefor in the fiscal year
15 rate to be certified on the ensuing July 15. If total payments exceed benefit
16 charges, all or part of the excess may be refunded, at the discretion of the
17 secretary, from the fund or retained in the fund as part of the payments that
18 may be required for the next fiscal year.

19 (3) *Allocation of benefit costs.* The reimbursing account of each
20 reimbursing employer shall be charged the full amount of regular benefits
21 and ½ of the amount of extended benefits paid except that each
22 reimbursing governmental employer's account shall be charged the full
23 amount of regular benefits and extended benefits paid for weeks of
24 unemployment beginning after December 31, 1978, to individuals whose
25 entire base period wage credits are from such employer. When benefits
26 received by an individual are based upon base period wage credits from
27 more than one employer then the reimbursing employer's or reimbursing
28 governmental employer's account shall be charged in the same ratio as
29 base period wage credits from such employer bear to the individual's total
30 base period wage credits. Notwithstanding any other provision of the
31 employment security law, no reimbursing employer's or reimbursing
32 governmental employer's account shall be charged for payments of
33 extended benefits that are wholly reimbursed to the state by the federal
34 government. Payments of unemployment compensation that are wholly
35 reimbursed to the reimbursing employer by the federal government shall
36 be charged for the purpose of such reimbursement under the federal
37 CARES act, public law 116-136.

38 (A) *Proportionate allocation (when fewer than all reimbursing base*
39 *period employers are liable).* If benefits paid to an individual are based on
40 wages paid by one or more reimbursing employers and on wages paid by
41 one or more contributing employers or rated governmental employers, the
42 amount of benefits payable by each reimbursing employer shall be an
43 amount that bears the same ratio to the total benefits paid to the individual

1 as the total base period wages paid to the individual by such employer
2 bears to the total base period wages paid to the individual by all of such
3 individual's base period employers.

4 (B) *Proportionate allocation (when all base period employers are*
5 *reimbursing employers)*. If benefits paid to an individual are based on
6 wages paid by two or more reimbursing employers, the amount of benefits
7 payable by each such employer shall be an amount that bears the same
8 ratio to the total benefits paid to the individual as the total base period
9 wages paid to the individual by such employer bear to the total base period
10 wages paid to the individual by all of such individual's base period
11 employers.

12 (4) *Group accounts*. Two or more reimbursing employers may file a
13 joint application to the secretary for the establishment of a group account
14 for the purpose of sharing the cost of benefits paid that are attributable to
15 service in the employment of such reimbursing employers. Each such
16 application shall identify and authorize a group representative to act as the
17 group's agent for the purposes of this ~~subsection (e)(4)~~ *paragraph*. Upon
18 approval of the application, the secretary shall establish a group account
19 for such employers effective as of the beginning of the calendar quarter in
20 which the secretary receives the application and shall notify the group's
21 representative of the effective date of the account. Such account shall
22 remain in effect for not less than four years and thereafter such account
23 shall remain in effect until terminated at the discretion of the secretary or
24 upon application by the group. Upon establishment of the account, each
25 member of the group shall be liable for payments in lieu of contributions
26 with respect to each calendar quarter in the amount that bears the same
27 ratio to the total benefits paid in such quarter that are attributable to service
28 performed in the employ of all members of the group as the total wages
29 paid for service in employment by such member in such quarter bear to the
30 total wages paid during such quarter for service performed in the employ
31 of all members of the group. The secretary shall adopt such rules and
32 regulations as the secretary deems necessary with respect to applications
33 for establishment, maintenance and termination of group accounts that are
34 authorized by this ~~subsection (e)(4)~~ *paragraph*, for addition of new
35 members to, and withdrawal of active members from such accounts, and
36 for the determination of the amounts that are payable under this ~~subsection~~
37 ~~(e)(4)~~ *paragraph* by members of the group and the time and manner of
38 such payments.

39 Sec. 13. K.S.A. 2020 Supp. 44-710a is hereby amended to read as
40 follows: 44-710a. (a) *Classification of employers by the secretary*. The
41 term "employer" as used in this section refers to contributing employers.
42 The secretary shall classify employers in accordance with their actual
43 experience in the payment of contributions on their own behalf and with

1 respect to benefits charged against their accounts with a view of fixing
2 such contribution rates as will reflect such experience. If, as of the date
3 such classification of employers is made, the secretary finds that any
4 employing unit has failed to file any report required in connection
5 therewith, or has filed a report which the secretary finds incorrect or
6 insufficient, the secretary shall make an estimate of the information
7 required from such employing unit on the basis of the best evidence
8 reasonably available to the secretary at the time, and notify the employing
9 unit thereof by mail addressed to its last known address. Unless such
10 employing unit shall file the report or a corrected or sufficient report as the
11 case may be, within 15 days after the mailing of such notice, the secretary
12 shall compute such employing unit's rate of contributions on the basis of
13 such estimates, and the rate as so determined shall be subject to increase
14 but not to reduction on the basis of subsequently ascertained information.
15 The secretary shall determine the contribution rate of each employer in
16 accordance with the requirements of this section.

17 (1) *New employers.* (A) No employer will be eligible for a rate
18 computation until there have been 24 consecutive calendar months
19 immediately preceding the computation date throughout which benefits
20 could have been charged against such employer's account.

21 (B) (i) (a) ~~For the rate year 2014 and each rate year thereafter,~~ Each
22 employer who is not eligible for a rate contribution shall pay contributions
23 equal to 2.7% of wages paid during each calendar year with regard to
24 employment, except such employers engaged in the construction industry
25 shall pay a rate equal to 6%.

26 (b) (1) ~~For the rate year 2015 and each rate year thereafter,~~ An
27 employer who was not doing business in Kansas prior to July 1, 2014,
28 shall be eligible for either the new employer rate under subsection (a)(1)
29 (B)(i)(a) or the rate associated with the reserve ratio such employer
30 experienced in the state which such employer was formerly located, but in
31 no event less than 1% if such:

32 (A) Employer has been in operation in the other state or states for at
33 least the three years immediately preceding the date such employer
34 becomes a liable employer in Kansas;

35 (B) employer provides the authenticated account history from
36 information accumulated from operations of such employer in the other
37 state or all the other states necessary to compute a current Kansas rate; and

38 (C) employer's business operations established in Kansas are of the
39 same nature, as defined by the North American industrial classification
40 system, as conducted by such employer in the other state or states.

41 (2) The election authorized in subsection (a)(1)(B)(i)(b) of this
42 section must be made in writing within 30 days after notice of Kansas
43 liability. A rate in accordance with subsection (a)(1)(B)(i)(a) will be

1 assigned unless a timely election has been made.

2 (3) If the election is made timely, the employer's account will receive
3 the rate elected for the remainder of that rate year. The rate assigned for
4 the next and subsequent years will be determined by the condition of the
5 account on the computation date.

6 (ii) For purposes of this subsection (a), employers shall be classified
7 by industrial activity in accordance with standard procedures as set forth in
8 rules and regulations adopted by the secretary. Employers engaged in more
9 than one type of industrial activity shall be classified by principal activity.
10 All rates assigned will remain in effect for a complete calendar year. If the
11 sale or acquisition of a new establishment would require reclassification of
12 the employer to a different industry sector, the employer would be
13 promptly notified, and the contribution rate applicable to the new industry
14 sector would become effective the following January 1.

15 (C) "Computation date" means June 30 of each calendar year with
16 respect to rates of contribution applicable to the calendar year beginning
17 with the following January 1. In arriving at contribution rates for each
18 calendar year, contributions paid on or before July 31 following the
19 computation date for employment occurring on or prior to the computation
20 date shall be considered for each contributing employer who has been
21 subject to this act for a sufficient period of time to have such employer's
22 rate computed under this subsection (a).

23 (2) *Eligible employers.* (A) A reserve ratio shall be computed for each
24 eligible employer by the following method: Total benefits charged to the
25 employer's account for all past years shall be deducted from all
26 contributions paid by such employer for all such years. The balance,
27 positive or negative, shall be divided by the employer's average annual
28 payroll, and the result shall constitute the employer reserve ratio.

29 ~~(B)-(i) For rate year 2015 and prior rate years, negative account~~
30 ~~balance employers, as defined in subsection (d), shall pay contributions at~~
31 ~~the rate of 5.4% for each calendar year.~~

32 ~~(ii) For rate year 2016 and rate years thereafter, Negative account~~
33 ~~balance employers, as defined in subsection (d), shall pay contributions at~~
34 ~~the rate referenced in section subsection (a)(4)(D)(ii)(B).~~

35 (C) Eligible employers, other than negative account balance
36 employers, who do not meet the average annual payroll requirements as
37 stated in K.S.A. 44-703(a)(2), and amendments thereto, will be issued the
38 maximum rate indicated by the maximum rate group of standard rate
39 ~~schedule—standard schedule 7~~ in subsection (a)(4)(~~D~~)(B)(ii) ~~of this~~
40 ~~section~~ until such employer establishes a new period of 24 consecutive
41 calendar months immediately preceding the computation date throughout
42 which benefits could have been charged against such employer's account
43 by resuming the payment of wages. Contribution rates effective for each

1 calendar year thereafter shall be determined as prescribed below.

2 (D) ~~For rate year 2015 and prior rate years, as of each computation~~
 3 ~~date, the total of the taxable wages paid during the 12-month period prior~~
 4 ~~to the computation date by all employers eligible for rate computation,~~
 5 ~~except negative account balance employers, shall be divided into 51~~
 6 ~~approximately equal parts designated in column A of schedule I as "rate~~
 7 ~~groups," except, with regard to a year in which the taxable wage base~~
 8 ~~changes. The taxable wages used in the calculation for such a year and the~~
 9 ~~following year shall be an estimate of what the taxable wages would have~~
 10 ~~been if the new taxable wage base had been in effect during the entire~~
 11 ~~twelve-month period prior to the computation date. The lowest numbered~~
 12 ~~of such rate groups shall consist of the employers with the most favorable~~
 13 ~~reserve ratios, as defined in this section, whose combined taxable wages~~
 14 ~~paid are less than 1.96% of all taxable wages paid by all eligible~~
 15 ~~employers. Each succeeding higher numbered rate group shall consist of~~
 16 ~~employers with reserve ratios that are less favorable than those of~~
 17 ~~employers in the preceding lower numbered rate groups and whose taxable~~
 18 ~~wages when combined with the taxable wages of employers in all lower~~
 19 ~~numbered rate groups equal the appropriate percentage of total taxable~~
 20 ~~wages designated in column B of schedule I. Each eligible employer, other~~
 21 ~~than a negative account balance employer, shall be assigned an experience~~
 22 ~~factor designated under column C of schedule I in accordance with the rate~~
 23 ~~group to which the employer is assigned on the basis of the employer's~~
 24 ~~reserve ratio and taxable payroll. If an employer's taxable payroll falls into~~
 25 ~~more than one rate group the employer shall be assigned the experience~~
 26 ~~factor of the lower numbered rate group. If one or more employers have~~
 27 ~~reserve ratios identical to that of the last employer included in the next~~
 28 ~~lower numbered rate group, all such employers shall be assigned the~~
 29 ~~experience factor designated to such last employer, notwithstanding the~~
 30 ~~position of their taxable payroll in column B of schedule I.~~

31 SCHEDULE I — Eligible Employers

32 Column A	Column B	Column C
33 Rate	Cumulative	Experience factor
34 group	taxable payroll	(Ratio to total wages)
35 1	Less than 1.96%	.025%
36 2	1.96% but less than 3.92	.04
37 3	3.92 but less than 5.88	.08
38 4	5.88 but less than 7.84	.12
39 5	7.84 but less than 9.80	.16
40 6	9.80 but less than 11.76	.20
41 7	11.76 but less than 13.72	.24
42 8	13.72 but less than 15.68	.28
43 9	15.68 but less than 17.64	.32

1	—10	17.64 but less than 19.60	.36
2	—11	19.60 but less than 21.56	.40
3	—12	21.56 but less than 23.52	.44
4	—13	23.52 but less than 25.48	.48
5	—14	25.48 but less than 27.44	.52
6	—15	27.44 but less than 29.40	.56
7	—16	29.40 but less than 31.36	.60
8	—17	31.36 but less than 33.32	.64
9	—18	33.32 but less than 35.28	.68
10	—19	35.28 but less than 37.24	.72
11	—20	37.24 but less than 39.20	.76
12	—21	39.20 but less than 41.16	.80
13	—22	41.16 but less than 43.12	.84
14	—23	43.12 but less than 45.08	.88
15	—24	45.08 but less than 47.04	.92
16	—25	47.04 but less than 49.00	.96
17	—26	49.00 but less than 50.96	1.00
18	—27	50.96 but less than 52.92	1.04
19	—28	52.92 but less than 54.88	1.08
20	—29	54.88 but less than 56.84	1.12
21	—30	56.84 but less than 58.80	1.16
22	—31	58.80 but less than 60.76	1.20
23	—32	60.76 but less than 62.72	1.24
24	—33	62.72 but less than 64.68	1.28
25	—34	64.68 but less than 66.64	1.32
26	—35	66.64 but less than 68.60	1.36
27	—36	68.60 but less than 70.56	1.40
28	—37	70.56 but less than 72.52	1.44
29	—38	72.52 but less than 74.48	1.48
30	—39	74.48 but less than 76.44	1.52
31	—40	76.44 but less than 78.40	1.56
32	—41	78.40 but less than 80.36	1.60
33	—42	80.36 but less than 82.32	1.64
34	—43	82.32 but less than 84.28	1.68
35	—44	84.28 but less than 86.24	1.72
36	—45	86.24 but less than 88.20	1.76
37	—46	88.20 but less than 90.16	1.80
38	—47	90.16 but less than 92.12	1.84
39	—48	92.12 but less than 94.08	1.88
40	—49	94.08 but less than 96.04	1.92
41	—50	96.04 but less than 98.00	1.96
42	—51	98.00 and over	2.00

43 (E) For rate year 2015 and prior rate years, negative account balance

1 employers shall, in addition to paying the rate provided for in subsection
2 (a)(2)(B) of this section, pay a surcharge based on the size of the
3 employer's negative reserve ratio, the calculation which is provided for in
4 subsection (a)(2) of this section. The amount of the surcharge shall be
5 determined from column B2 of schedule II of this section for calendar
6 years 2012, 2013, 2014 and from column B4 of schedule II of this section
7 for each calendar year after 2014. Each negative account balance employer
8 who does not satisfy the requirements to have an average annual payroll,
9 as defined by K.S.A. 44-703(a)(2), and amendments thereto, shall be
10 assigned a surcharge of equal to the maximum negative ratio surcharge
11 from column B2 of schedule II of this section for calendar years 2012,
12 2013 and 2014. Funds from the surcharge paid according to this subsection
13 (a)(2)(E), and amendments thereto, shall be used to pay principal and
14 interest due on funds received from the federal unemployment account
15 under title XII of the social security act, (42 U.S.C. §§ 1321 to 1324), in
16 the following manner:

17 (i) For each calendar year 2012, 2013 and 2014, an additional 0.10%
18 of the taxable wages paid by all negative account balance employers with
19 a negative reserve ratio between 0.0% and 19.9% shall be designated an
20 interest assessment surcharge and paid into the employment security
21 interest assessment fund for the purpose of paying interest due and owing
22 on funds received from the federal unemployment account under title XII
23 of the social security act. The total surcharges assessed, including the
24 additional 0.10% surcharge mentioned above, on such employers are listed
25 in schedule II column B2. For the calendar year 2015, the surcharge rate
26 for negative balance employers with a negative reserve ratio between 0.0%
27 and 19.9% shall be as listed in schedule II column B4.

28 (ii) For the calendar years 2012, 2013 and 2014, an additional
29 surcharge on negative balance employers with a negative reserve ratio of
30 20.0% and higher shall be designated an interest assessment surcharge and
31 deposited in the employment security interest assessment fund. The
32 additional surcharge shall be used for the purposes of paying interest due
33 and owing on funds received from the federal unemployment account
34 under title XII of the social security act. The total surcharge including the
35 additional surcharge on such employers is listed in schedule II column B3
36 of this section.

37 (iii) For any succeeding year in which interest is due and owing on
38 funds received from the federal unemployment account under title XII of
39 the social security act, the secretary of labor may adjust the surcharge
40 amounts necessary to pay such interest;

41 (iv) the portion of such surcharge used for the payment of such
42 interest shall not be included in the calculation of such employers reserve
43 ratio pursuant to subsection (a)(2). The portion of such surcharge used for

1 the payment of principal shall be included in the calculation of such
 2 employers reserve ratio pursuant to subsection (a)(2); and
 3 (v) if the amounts collected under this subsection are in excess of the
 4 amounts needed to pay interest due, the amounts in excess shall remain in
 5 the employment security interest assessment fund to be used to pay interest
 6 in future years. Whenever the secretary certifies all interest payments have
 7 been paid pursuant to this section, any excess funds remaining in the
 8 employment security interest assessment fund shall be transferred to the
 9 employment security trust fund for the purpose of paying any remaining
 10 principal amount due for advances described in this section. In the event
 11 that the amount transferred from the employment security interest
 12 assessment fund exceeds such remaining amount of principal due, the
 13 balance shall be used for the purposes of the employment security trust
 14 fund.

15 SCHEDULE II—Surecharge on Negative Accounts

16 Column A	Column B1	Column B2	Column B3	Column B4
17 Negative Reserve	Surecharge as a percent of	Surecharge as a percent of	Surecharge as a percent of	Surecharge as a percent of
18 Ratiotaxable wages	taxable wages	taxable wages	taxable wages	taxable wages
20 Less than 2.0%	0.20%	0.30%		0.10%
21 2.0% but less than 4.0	0.40	0.50		0.20
22 4.0 but less than 6.0	0.60	0.70		0.30
23 6.0 but less than 8.0	0.80	0.90		0.40
24 8.0 but less than 10.0	1.00	1.10		0.50
25 10.0 but less than 12.0	1.20	1.30		0.60
26 12.0 but less than 14.0	1.40	1.50		0.70
27 14.0 but less than 16.0	1.60	1.70		0.80
28 16.0 but less than 18.0	1.80	1.90		0.90
29 18.0 but less than 20.0	2.00	2.10		1.00
30 20.0 but less than 22.0	2.00		2.20	1.10
31 22.0 but less than 24.0	2.00		2.40	1.20
32 24.0 but less than 26.0	2.00		2.60	1.30
33 26.0 but less than 28.0	2.00		2.80	1.40
34 28.0 but less than 30.0	2.00		3.00	1.50
35 30.0 but less than 32.0	2.00		3.20	1.60
36 32.0 but less than 34.0	2.00		3.40	1.70
37 34.0 but less than 36.0	2.00		3.60	1.80
38 36.0 but less than 38.0	2.00		3.80	1.90
39 38.0 and over	2.00		4.00	2.00

40 (3) *Entering and expanding employer.* (A) The secretary, as a method
 41 of providing for a reduced rate of contributions to an employer shall verify
 42 the qualifications in this statute that bear a direct relation to unemployment
 43 risk for that employer.

44 (B) If, as of the computation date, an eligible, positive balance
 45 employer's reserve ratio is significantly affected due to an increase in the
 46 employer's taxable payroll of at least 100% and such increase is
 47 attributable to a growth in employment, and not to a change in the taxable
 48 wage base from the previous year, the secretary shall assign a reduced rate

1 of contributions for a period of three years.

2 (i) Such reduced rate of contributions shall be the new employer rate
 3 described in subsection (a)(1)(B)(i)(a), or a rate based on the employer's
 4 demonstrated risk as reflected in the employer's reserve fund ratio history.

5 (ii) To be eligible for such reduced rate, the employer must maintain a
 6 positive account balance throughout the reduced-rate period and must have
 7 an increase in account balance for each year.

8 (4) ~~Planned yield. (A) For rate year 2015 and prior rate years, the~~
 9 ~~average required yield shall be determined from schedule III of this~~
 10 ~~section, and the planned yield on total wages in column B of schedule III~~
 11 ~~shall be determined by the reserve fund ratio in column A of schedule III.~~
 12 ~~The reserve fund ratio shall be determined by dividing total assets in the~~
 13 ~~employment security fund provided for in K.S.A. 44-712(a), and~~
 14 ~~amendments thereto, excluding all moneys credited to the account of this~~
 15 ~~state pursuant to section 903 of the federal social security act, as amended,~~
 16 ~~which have been appropriated by the state legislature, whether or not~~
 17 ~~withdrawn from the trust fund, and excluding contributions not yet paid on~~
 18 ~~July 31 by total payrolls for contributing employers for the preceding~~
 19 ~~fiscal year which ended June 30.~~

20 (B)(A) For the each rate year 2016 and rate years thereafter, the
 21 contribution schedule in effect shall be determined by the applicable fund
 22 control table and rate schedule table of subsection (a)(4)(D)(B).

23 SCHEDULE III – Fund Control
 24 Ratios to Total Wages

25 Column A	Column B
26 Reserve Fund Ratio	Planned Yield
27 4.500 and over	0.00
28 4.475 but less than 4.500.....	0.01
29 4.450 but less than 4.475.....	0.02
30 4.425 but less than 4.450.....	0.03
31 4.400 but less than 4.425.....	0.04
32 4.375 but less than 4.400.....	0.05
33 4.350 but less than 4.375.....	0.06
34 4.325 but less than 4.350.....	0.07
35 4.300 but less than 4.325.....	0.08
36 4.275 but less than 4.300.....	0.09
37 4.250 but less than 4.275.....	0.10
38 4.225 but less than 4.250.....	0.11
39 4.200 but less than 4.225.....	0.12
40 4.175 but less than 4.200.....	0.13
41 4.150 but less than 4.175.....	0.14
42 4.125 but less than 4.150.....	0.15
43 4.100 but less than 4.125.....	0.16

1	4.075 but less than 4.100.....	0.17
2	4.050 but less than 4.075.....	0.18
3	4.025 but less than 4.050.....	0.19
4	4.000 but less than 4.025.....	0.20
5	3.950 but less than 4.000.....	0.21
6	3.900 but less than 3.950.....	0.22
7	3.850 but less than 3.900.....	0.23
8	3.800 but less than 3.850.....	0.24
9	3.750 but less than 3.800.....	0.25
10	3.700 but less than 3.750.....	0.26
11	3.650 but less than 3.700.....	0.27
12	3.600 but less than 3.650.....	0.28
13	3.550 but less than 3.600.....	0.29
14	3.500 but less than 3.550.....	0.30
15	3.450 but less than 3.500.....	0.31
16	3.400 but less than 3.450.....	0.32
17	3.350 but less than 3.400.....	0.33
18	3.300 but less than 3.350.....	0.34
19	3.250 but less than 3.300.....	0.35
20	3.200 but less than 3.250.....	0.36
21	3.150 but less than 3.200.....	0.37
22	3.100 but less than 3.150.....	0.38
23	3.050 but less than 3.100.....	0.39
24	3.000 but less than 3.050.....	0.40
25	2.950 but less than 3.000.....	0.41
26	2.900 but less than 2.950.....	0.42
27	2.850 but less than 2.900.....	0.43
28	2.800 but less than 2.850.....	0.44
29	2.750 but less than 2.800.....	0.45
30	2.700 but less than 2.750.....	0.46
31	2.650 but less than 2.700.....	0.47
32	2.600 but less than 2.650.....	0.48
33	2.550 but less than 2.600.....	0.49
34	2.500 but less than 2.550.....	0.50
35	2.450 but less than 2.500.....	0.51
36	2.400 but less than 2.450.....	0.52
37	2.350 but less than 2.400.....	0.53
38	2.300 but less than 2.350.....	0.54
39	2.250 but less than 2.300.....	0.55
40	2.200 but less than 2.250.....	0.56
41	2.150 but less than 2.200.....	0.57
42	2.100 but less than 2.150.....	0.58
43	2.050 but less than 2.100.....	0.59

1	2.000 but less than 2.050.....	0.60
2	1.975 but less than 2.000.....	0.61
3	1.950 but less than 1.975.....	0.62
4	1.925 but less than 1.950.....	0.63
5	1.900 but less than 1.925.....	0.64
6	1.875 but less than 1.900.....	0.65
7	1.850 but less than 1.875.....	0.66
8	1.825 but less than 1.850.....	0.67
9	1.800 but less than 1.825.....	0.68
10	1.775 but less than 1.800.....	0.69
11	1.750 but less than 1.775.....	0.70
12	1.725 but less than 1.750.....	0.71
13	1.700 but less than 1.725.....	0.72
14	1.675 but less than 1.700.....	0.73
15	1.650 but less than 1.675.....	0.74
16	1.625 but less than 1.650.....	0.75
17	1.600 but less than 1.625.....	0.76
18	1.575 but less than 1.600.....	0.77
19	1.550 but less than 1.575.....	0.78
20	1.525 but less than 1.550.....	0.79
21	1.500 but less than 1.525.....	0.80
22	1.475 but less than 1.500.....	0.81
23	1.450 but less than 1.475.....	0.82
24	1.425 but less than 1.450.....	0.83
25	1.400 but less than 1.425.....	0.84
26	1.375 but less than 1.400.....	0.85
27	1.350 but less than 1.375.....	0.86
28	1.325 but less than 1.350.....	0.87
29	1.300 but less than 1.325.....	0.88
30	1.275 but less than 1.300.....	0.89
31	1.250 but less than 1.275.....	0.90
32	1.225 but less than 1.250.....	0.91
33	1.200 but less than 1.225.....	0.92
34	1.175 but less than 1.200.....	0.93
35	1.150 but less than 1.175.....	0.94
36	1.125 but less than 1.150.....	0.95
37	1.100 but less than 1.125.....	0.96
38	1.075 but less than 1.100.....	0.97
39	1.050 but less than 1.075.....	0.98
40	1.025 but less than 1.050.....	0.99
41	1.000 but less than 1.025.....	1.00
42	0.900 but less than 1.000.....	1.01
43	0.800 but less than 0.900.....	1.02

1	0.700 but less than 0.800.....	1.03
2	0.600 but less than 0.700.....	1.04
3	0.500 but less than 0.600.....	1.05
4	0.400 but less than 0.500.....	1.06
5	0.300 but less than 0.400.....	1.07
6	0.200 but less than 0.300.....	1.08
7	0.100 but less than 0.200.....	1.09
8	Less than 0.100%.....	1.10

9 (C) *Adjustment to taxable wages.* For rate year 2015 and prior rate
10 years, the planned yield as a percent of total wages, as determined in this
11 subsection (a)(4), shall be adjusted to taxable wages by multiplying by the
12 ratio of total wages to taxable wages for all contributing employers for the
13 preceding fiscal year ending June 30, except, with regard to a year in
14 which the taxable wage base changes. The taxable wages used in the
15 calculation for such a year and the following year shall be an estimate of
16 what the taxable wages would have been if the new taxable wage base had
17 been in effect during all of the preceding fiscal year ending June 30.

18 ~~(D)~~(B) *Effective rates.* (i) ~~For rate year 2016 and ensuing rate years,~~
19 Employer contribution rates to be effective for ~~the ensuing each~~ calendar
20 year shall be determined by the *applicable rate schedule in clause (ii) and*
21 *the fund control table for the rate year as specified* contained in this
22 *section clause.* The average high cost multiple of the trust fund as of the
23 computation date shall determine the contribution schedule in effect for the
24 next rate year. For purposes of subsection (a)(4)~~(D)~~(B)(i) ~~and (v),~~ the
25 average high cost multiple is the reserve fund ratio, ~~as defined by~~
26 ~~subsection (a)(4)(A);~~ divided by the average high benefit cost rate. The
27 average high benefit cost rate shall be determined by averaging the three
28 highest benefit cost rates over the last 20 years from the preceding fiscal
29 year which ended June 30. The high benefit cost rate is defined by dividing
30 total benefits paid in the fiscal year by total payrolls for covered employers
31 in the fiscal year. *The reserve fund ratio shall be determined by dividing*
32 *total assets in the employment security fund provided for in K.S.A. 44-*
33 *712(a), and amendments thereto, excluding all moneys credited to the*
34 *account of this state pursuant to section 903 of the federal social security*
35 *act, as amended, that have been appropriated by the legislature, whether*
36 *or not withdrawn from the trust fund, and excluding contributions not yet*
37 *paid on July 31, by total payrolls for contributing employers for the*
38 *preceding fiscal year that ended on June 30.*

39	Fund Control Table A		
40	<i>For Rate Years 2016-2021</i>		
41	Lower AHCM	Upper AHCM	Solvency Adjustment
42	Threshold	Threshold	to Standard Rate per
43			<i>Standard Rate Schedule</i>

1	-1000.00000	-1,000.00000	0.19999	1.60%
2	0.20000		0.44999	1.40%
3	0.45000		0.59999	1.20%
4	0.60000		0.74999	1.00%
5	0.75000		1.14999	0.00%
6	1.15000	+1000.00000	1,000.00000	-0.50%

Fund Control Table B

For Rate Year 2022 and Ensuing Calendar Years

9	KS SUTA	Lower	Upper	Solvency/Credit	Solvency/Credit	Solvency/Credit	
10	Tax Rate	AHCM	AHCM	Adjustment to	Adjustment as a	Adjustment as a	
11	Schedules	Threshold	Threshold	Maximum	Rate Group	Total % to	
12				Standard Rate	Multiplier to	Employer's	
13					Standard, Earned	Standard, Earned	
14					Rate Group	Rate Group	
15	1	-1,000.00000	-0.00001	2.00%	0.05263%	26.32%	
16	2	0.00000	0.24999	1.80%	0.04737%	23.68%	
17	Solvency	3	0.25000	0.44999	1.60%	0.04211%	21.05%
18	Schedules	4	0.45000	0.59999	1.40%	0.03684%	18.42%
19	(1-6)	5	0.60000	0.69999	1.20%	0.03158%	15.79%
20		6	0.70000	0.74999	1.00%	0.02632%	13.16%
21	Standard						
22	Schedule	7	0.75000	1.24999	0.00%	0.00000%	0.00%
23	(7)						
24		8	1.25000	1.29999	-1.00%	-0.02632%	-13.16%
25	Credit	9	1.30000	1.39999	-1.20%	-0.03158%	-15.79%
26	Schedules	10	1.40000	1.54999	-1.40%	-0.03684%	-18.42%
27	(8-13)	11	1.55000	1.74999	-1.60%	-0.04211%	-21.05%
28		12	1.75000	1.99999	-1.80%	-0.04737%	-23.68%
29		13	2.00000	1,000.00000	-2.00%	-0.05263%	-26.32%

30 (ii) (a) ~~For rate year 2016 and ensuing rate years, Eligible employers~~
 31 ~~shall be classified by rate group according to the standard rate schedule -~~
 32 ~~standard rate schedule 7 in this section, subject to any adjustment pursuant~~
 33 ~~to the effective rate schedule for that rate year. Except as provided in~~
 34 ~~subclause (b), for rate years 2016 through 2021, the rate pursuant to the~~
 35 ~~standard rate schedule as adjusted by fund control table A shall apply.~~
 36 ~~Except as provided in subclause (b), for rate year 2022 and ensuing~~
 37 ~~calendar years, the rate pursuant to standard rate schedule 7, solvency~~
 38 ~~schedules 1 through 6 or credit schedules 8 through 13 shall apply as~~
 39 ~~provided by fund control table B.~~

40 (b) *In the event the full appropriation is not made as provided in*
 41 *section 6, and amendments thereto, to the employment security fund on or*
 42 *before July 15, 2021, all contributing employers shall pay the rate as set*
 43 *forth in standard schedule S - standard rate schedule 7 for the 2022*
 44 *calendar year.*

STANDARD RATE SCHEDULE S -
 STANDARD RATE SCHEDULE 7

45	Rate	Lower Reserve	Upper Reserve	Standard
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	Group	Ratio Limit	Ratio Limit	Rate
1				
2	1	18.590	1,000,000.000	0.20%
3	2	17.875	18.589	0.40%
4	3	17.160	17.874	0.60%
5	4	16.445	17.159	0.80%
6	5	15.730	16.444	1.00%
7	6	15.015	15.729	1.20%
8	7	14.300	15.014	1.40%
9	8	13.585	14.299	1.60%
10	9	12.870	13.584	1.80%
11	10	12.155	12.869	2.00%
12	11	11.440	12.154	2.20%
13	12	10.725	11.439	2.40%
14	13	10.010	10.724	2.60%
15	14	9.295	10.009	2.80%
16	15	8.580	9.294	3.00%
17	16	7.865	8.579	3.20%
18	17	7.150	7.864	3.40%
19	18	6.435	7.149	3.60%
20	19	5.720	6.434	3.80%
21	20	5.005	5.719	4.00%
22	21	4.290	5.004	4.20%
23	22	3.575	4.289	4.40%
24	23	2.860	3.574	4.60%
25	24	2.145	2.859	4.80%
26	25	1.430	2.144	5.00%
27	26	0.715	1.429	5.20%
28	27	0.000	0.714	5.40%
29	N1	-0.714	-0.001	5.60%
30	N2	-1.429	-0.715	5.80%
31	N3	-2.144	-1.430	6.00%
32	N4	-2.859	-2.145	6.20%
33	N5	-3.574	-2.860	6.40%
34	N6	-4.289	-3.575	6.60%
35	N7	-5.004	-4.290	6.80%
36	N8	-5.719	-5.005	7.00%
37	N9	-6.434	-5.720	7.20%
38	N10	-7.149	-6.435	7.40%
39	N11	-1,000,000.000	-7.150	7.60%

40 (iii) For all rate years prior to 2016, except with regard to rates for
41 negative account balance employers, employer contribution rates to be
42 effective for the ensuing calendar year shall be computed by adjusting
43 proportionately the experience factors from schedule I of this section to the

1 required yield on taxable wages. For the purposes of this subsection (a)(4),
 2 all rates computed shall be rounded to the nearest .01% and for calendar
 3 year 1983 and ensuing calendar years, the maximum effective contribution
 4 rate shall not exceed 5.4%.

5 (iv) ~~For rate years 2007 through 2015, employers who are current in~~
 6 ~~filing quarterly wage reports and in payment of all contributions due and~~
 7 ~~owing, shall be issued a contribution rate based upon the following~~
 8 ~~reduction: For rate groups 1 through 5, the rates would be reduced to~~
 9 ~~0.00%; for rate groups 6 through 28, the rates would be reduced by 50%;~~
 10 ~~for rate groups 29 through 51, the rates would be reduced by 40%.~~

11 (v) ~~For rate year 2014 and rate years thereafter, an eligible employer~~
 12 ~~other than a negative account balance employer, who has filed all reports~~
 13 ~~due and paid all contributions due and owing on or before January 31 of~~
 14 ~~the applicable year is entitled to a rate discount of 15% except as provided~~
 15 ~~in this subsection. For rate year 2015 and rate years thereafter, an eligible~~
 16 ~~employer other than a negative account balance employer, who has filed~~
 17 ~~all reports due and paid all contributions due and owing on or before~~
 18 ~~January 31 of the applicable year is entitled to a rate discount of 25%~~
 19 ~~except as provided in this subsection. This discount shall not be in effect if~~
 20 ~~other reduced rates pursuant to subsections (a)(4)(D)(i) through (iv) are in~~
 21 ~~effect. This discount shall not be available for a rate year if the average~~
 22 ~~high cost multiple, as defined in subsection (a)(4)(D)(i), of the~~
 23 ~~employment security trust fund balance falls below 1.0 as of the~~
 24 ~~computation date of that year's rates, and this discount shall thereafter~~
 25 ~~cease to be in effect for all subsequent rate years.~~

26 *Rate SOLVENCY RATE SCHEDULES (1-6)*

27	<i>Group 1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
28	1 0.252632%	0.247375%	0.24211%	0.23684%	0.23158%	0.22632%
29	2 0.505263%	0.49474%	0.48421%	0.47368%	0.46316%	0.45263%
30	3 0.757895%	0.74211%	0.72632%	0.71053%	0.69474%	0.67895%
31	4 1.010526%	0.98947%	0.96842%	0.94737%	0.92632%	0.90526%
32	5 1.263158%	1.23684%	1.21053%	1.18421%	1.15789%	1.13158%
33	6 1.515789%	1.48421%	1.45263%	1.42105%	1.38947%	1.35789%
34	7 1.768421%	1.73158%	1.69474%	1.65789%	1.62105%	1.58421%
35	8 2.021053%	1.97895%	1.93684%	1.89474%	1.85263%	1.81053%
36	9 2.273684%	2.22632%	2.17895%	2.13158%	2.08421%	2.03684%
37	10 2.526316%	2.47368%	2.42105%	2.36842%	2.31579%	2.26316%
38	11 2.778947%	2.72105%	2.66316%	2.60526%	2.54737%	2.48947%
39	12 3.031579%	2.96842%	2.90526%	2.84211%	2.77895%	2.71579%
40	13 3.284211%	3.21579%	3.14737%	3.07895%	3.01053%	2.94211%
41	14 3.536842%	3.46316%	3.38947%	3.31579%	3.24211%	3.16842%
42	15 3.789474%	3.71053%	3.63158%	3.55263%	3.47368%	3.39474%
43	16 4.042105%	3.95789%	3.87368%	3.78947%	3.70526%	3.62105%

1	17	4.294737%	4.20526%	4.11579%	4.02632%	3.93684%	3.84737%
2	18	4.547368%	4.45263%	4.35789%	4.26316%	4.16842%	4.07368%
3	19	4.800000%	4.70000%	4.60000%	4.50000%	4.40000%	4.30000%
4	20	5.052632%	4.94737%	4.84211%	4.73684%	4.63158%	4.52632%
5	21	5.305263%	5.19474%	5.08421%	4.97368%	4.86316%	4.75263%
6	22	5.557895%	5.44211%	5.32632%	5.21053%	5.09474%	4.97895%
7	23	5.810526%	5.68947%	5.56842%	5.44737%	5.32632%	5.20526%
8	24	6.063158%	5.93684%	5.81053%	5.68421%	5.55789%	5.43158%
9	25	6.315789%	6.18421%	6.05263%	5.92105%	5.78947%	5.65789%
10	26	6.568421%	6.43158%	6.29474%	6.15789%	6.02105%	5.88421%
11	27	6.821053%	6.67895%	6.53684%	6.39474%	6.25263%	6.11053%
12	N1	7.073684%	6.92632%	6.77895%	6.63158%	6.48421%	6.33684%
13	N2	7.326316%	7.17368%	7.02105%	6.86842%	6.71579%	6.56316%
14	N3	7.578947%	7.42105%	7.26316%	7.10526%	6.94737%	6.78947%
15	N4	7.831579%	7.66842%	7.50526%	7.34211%	7.17895%	7.01579%
16	N5	8.084211%	7.91579%	7.74737%	7.57895%	7.41053%	7.24211%
17	N6	8.336842%	8.16316%	7.98947%	7.81579%	7.64211%	7.46842%
18	N7	8.589474%	8.41053%	8.23158%	8.05263%	7.87368%	7.69474%
19	N8	8.842105%	8.65789%	8.47368%	8.28947%	8.10526%	7.92105%
20	N9	9.094737%	8.90526%	8.71579%	8.52632%	8.33684%	8.14737%
21	N10	9.347368%	9.15263%	8.95789%	8.76316%	8.56842%	8.37368%
22	N11	9.600000%	9.40000%	9.20000%	9.00000%	8.80000%	8.60000%

Rate		CREDIT RATE SCHEDULES (8-13)					
Group	8	9	10	11	12	13	
25	1	0.173684%	0.16842%	0.16316%	0.15789%	0.15263%	0.14737%
26	2	0.347368%	0.33684%	0.32632%	0.31579%	0.30526%	0.29474%
27	3	0.521053%	0.50526%	0.48947%	0.47368%	0.45789%	0.44211%
28	4	0.694737%	0.67368%	0.65263%	0.63158%	0.61053%	0.58947%
29	5	0.868421%	0.84211%	0.81579%	0.78947%	0.76316%	0.73684%
30	6	1.042105%	1.01053%	0.97895%	0.94737%	0.91579%	0.88421%
31	7	1.215789%	1.17895%	1.14211%	1.10526%	1.06842%	1.03158%
32	8	1.389474%	1.34737%	1.30526%	1.26316%	1.22105%	1.17895%
33	9	1.563158%	1.51579%	1.46842%	1.42105%	1.37368%	1.32632%
34	10	1.736842%	1.68421%	1.63158%	1.57895%	1.52632%	1.47368%
35	11	1.910526%	1.85263%	1.79474%	1.73684%	1.67895%	1.62105%
36	12	2.084211%	2.02105%	1.95789%	1.89474%	1.83158%	1.76842%
37	13	2.257895%	2.18947%	2.12105%	2.05263%	1.98421%	1.91579%
38	14	2.431579%	2.35789%	2.28421%	2.21053%	2.13684%	2.06316%
39	15	2.605263%	2.52632%	2.44737%	2.36842%	2.28947%	2.21053%
40	16	2.778947%	2.69474%	2.61053%	2.52632%	2.44211%	2.35789%
41	17	2.952632%	2.86316%	2.77368%	2.68421%	2.59474%	2.50526%
42	18	3.126316%	3.03158%	2.93684%	2.84211%	2.74737%	2.65263%
43	19	3.300000%	3.20000%	3.10000%	3.00000%	2.90000%	2.80000%

1	20	3.473684%	3.36842%	3.26316%	3.15789%	3.05263%	2.94737%
2	21	3.647368%	3.53684%	3.42632%	3.31579%	3.20526%	3.09474%
3	22	3.821053%	3.70526%	3.58947%	3.47368%	3.35789%	3.24211%
4	23	3.994737%	3.87368%	3.75263%	3.63158%	3.51053%	3.38947%
5	24	4.168421%	4.04211%	3.91579%	3.78947%	3.66316%	3.53684%
6	25	4.342105%	4.21053%	4.07895%	3.94737%	3.81579%	3.68421%
7	26	4.515789%	4.37895%	4.24211%	4.10526%	3.96842%	3.83158%
8	27	4.689474%	4.54737%	4.40526%	4.26316%	4.12105%	3.97895%
9	N1	4.863158%	4.71579%	4.56842%	4.42105%	4.27368%	4.12632%
10	N2	5.036842%	4.88421%	4.73158%	4.57895%	4.42632%	4.27368%
11	N3	5.210526%	5.05263%	4.89474%	4.73684%	4.57895%	4.42105%
12	N4	5.384211%	5.22105%	5.05789%	4.89474%	4.73158%	4.56842%
13	N5	5.557895%	5.38947%	5.22105%	5.05263%	4.88421%	4.71579%
14	N6	5.731579%	5.55789%	5.38421%	5.21053%	5.03684%	4.86316%
15	N7	5.905263%	5.72632%	5.54737%	5.36842%	5.18947%	5.01053%
16	N8	6.078947%	5.89474%	5.71053%	5.52632%	5.34211%	5.15789%
17	N9	6.252632%	6.06316%	5.87368%	5.68421%	5.49474%	5.30526%
18	N10	6.426316%	6.23158%	6.03684%	5.84211%	5.64737%	5.45263%
19	N11	6.600000%	6.40000%	6.20000%	6.00000%	5.80000%	5.60000%

20 (b) *Successor classification.* (1) (A) For the purposes of this
21 subsection—(b), whenever an employing unit, whether or not it is an
22 "employing unit" within the meaning of of K.S.A. 44-703(g), and
23 amendments thereto, becomes an employer pursuant to K.S.A. 44-703(h)
24 (4), and amendments thereto, or is an employer at the time of acquisition
25 and meets the definition of a "successor employer" as defined by K.S.A.
26 44-703(dd), and amendments thereto, and thereafter transfers its trade or
27 business, or any portion thereof, to another employer and, at the time of
28 the transfer, there is substantially common ownership, management or
29 control of the two employers, then the unemployment experience
30 attributable to the transferred trade or business shall be transferred to the
31 employer to whom such business is so transferred. These experience
32 factors consist of all contributions paid, benefit experience and annual
33 payrolls of the predecessor employer. The transfer of some or all of an
34 employer's workforce to another employer shall be considered a transfer of
35 trade or business when, as the result of such transfer, the transferring
36 employer no longer performs trade or business with respect to the
37 transferred workforce, and such trade or business is performed by the
38 employer to whom the workforce is transferred.

39 (B) If, following a transfer of experience under subparagraph (A), the
40 secretary determines that a substantial purpose of the transfer or business
41 was to obtain a reduced liability for contributions, then the experience
42 rating accounts of the employers involved shall be combined into a single
43 account and a single rate assigned to such account.

1 (2) A successor employer as defined by K.S.A. 44-703(h)(4) or (dd),
2 and amendments thereto, may receive the experience rating factors of the
3 predecessor employer if an application is made to the secretary or the
4 secretary's designee in writing within 120 days of the date of the transfer.

5 (3) Whenever an employing unit, whether or not it is an "employing
6 unit" within the meaning of K.S.A. 44-703(g), and amendments thereto,
7 acquires or in any manner succeeds to a percentage of an employer's
8 annual payroll which is less than 100% and intends to continue the
9 acquired percentage as a going business, the employing unit may acquire
10 the same percentage of the predecessor's experience factors if: (A) The
11 predecessor employer and successor employing unit make an application
12 in writing on the form prescribed by the secretary; (B) the application is
13 submitted within 120 days of the date of the transfer; (C) the successor
14 employing unit is or becomes an employer subject to this act immediately
15 after the transfer; (D) the percentage of the experience rating factors
16 transferred shall not be thereafter used in computing the contribution rate
17 for the predecessor employer; and (E) the secretary finds that such transfer
18 will not tend to defeat or obstruct the object and purposes of this act.

19 (4) (A) The rate of both employers in a full or partial successorship
20 under paragraph (1) ~~of this subsection~~ shall be recalculated and made
21 effective on the first day of the next calendar quarter following the date of
22 transfer of trade or business.

23 (B) If a successor employer is determined to be qualified under
24 paragraph (2) or (3) ~~of this subsection~~ to receive the experience rating
25 factors of the predecessor employer, the rate assigned to the successor
26 employer for the remainder of the contributions year shall be determined
27 by the following:

28 (i) If the acquiring employing unit was an employer subject to this act
29 prior to the date of the transfer, the rate of contribution shall be the same as
30 the contribution rate of the acquiring employer on the date of the transfer.

31 (ii) If the acquiring employing unit was not an employer subject to
32 this act prior to the date of the transfer, the successor employer shall have a
33 newly computed rate for the remainder of the contribution year which shall
34 be based on the transferred experience rating factors as they existed on the
35 most recent computation date immediately preceding the date of
36 acquisition. These experience rating factors consist of all contributions
37 paid, benefit experience and annual payrolls.

38 (5) Whenever an employing unit is not an employer at the time it
39 acquires the trade or business of an employer, the unemployment
40 experience factors of the acquired business shall not be transferred to such
41 employing unit if the secretary finds that such employing unit acquired the
42 business solely or primarily for the purpose of obtaining a lower rate of
43 contributions. Instead, such employing unit shall be assigned the

1 applicable industry rate for a "new employer" as described in subsection
2 (a)(1). In determining whether the business was acquired solely or
3 primarily for the purpose of obtaining a lower rate of contributions, the
4 secretary shall use objective factors which may include the cost of
5 acquiring the business, whether the employer continued the business
6 enterprise of the acquired business, how long such business enterprise was
7 continued, or whether a substantial number of new employees were hired
8 for performance of duties unrelated to the business activity conducted
9 prior to acquisition.

10 (6) Whenever an employer's account has been terminated as provided
11 in K.S.A. 44-711(d) and (e), and amendments thereto, and the employer
12 continues with employment to liquidate the business operations, that
13 employer shall continue to be an "employer" subject to the employment
14 security law as provided in K.S.A. 44-703(h)(8), and amendments thereto.
15 The rate of contribution from the date of transfer to the end of the then
16 current calendar year shall be the same as the contribution rate prior to the
17 date of the transfer. At the completion of the then current calendar year, the
18 rate of contribution shall be that of a "new employer" as described in
19 subsection (a)(1).

20 (7) No rate computation will be permitted an employing unit
21 succeeding to the experience of another employing unit pursuant to this
22 section for any period subsequent to such succession except in accordance
23 with rules and regulations adopted by the secretary. Any such regulations
24 shall be consistent with federal requirements for additional credit
25 allowance in section 3303 of the federal internal revenue code of 1986,
26 and consistent with the provisions of this act.

27 (c) *Voluntary contributions.* Notwithstanding any other provision of
28 the employment security law, any employer may make voluntary payments
29 for the purpose of reducing or maintaining a reduced rate in addition to the
30 contributions required under this section. Such voluntary payments may be
31 made only during the thirty-day period immediately following the date of
32 mailing of experience rating notices for a calendar year. All such voluntary
33 contribution payments shall be paid prior to the expiration of 120 days
34 after the beginning of the year for which such rates are effective. The
35 amount of voluntary contributions shall be credited to the employer's
36 account as of the next preceding computation date and the employer's rate
37 shall be computed accordingly. Under no circumstances shall voluntary
38 payments be refunded in whole or in part.

39 (d) As used in this section, "negative account balance employer"
40 means an eligible employer whose total benefits charged to such
41 employer's account for all past years have exceeded all contributions paid
42 by such employer for all such years.

43 (e) ~~There is hereby established in the state treasury, separate and apart~~

1 from all public moneys or funds of this state, an employment security
2 interest assessment fund, which shall be administered by the secretary as
3 provided in this act. Moneys in the employment security fund established
4 by K.S.A. 44-712, and amendments thereto, and employment security
5 interest assessment fund established by K.S.A. 44-710, and amendments
6 thereto, shall not be invested in the pooled money investment portfolio
7 established under K.S.A. 75-4234, and amendments thereto.
8 Notwithstanding the provisions of K.S.A. 44-712(a), K.S.A. 44-716,
9 K.S.A. 44-717 and K.S.A. 75-4234, and amendments thereto, or any like
10 provision the secretary shall remit all moneys received from employers
11 pursuant to the interest payment assessment established in subsection (a)
12 (2)(E), to the state treasurer in accordance with the provisions of K.S.A.
13 75-4215, and amendments thereto. Upon receipt of each such remittance,
14 the state treasurer shall deposit the entire amount in the employment
15 security interest assessment fund. All moneys in this fund which are
16 received from employers pursuant to the interest payment assessment
17 established in subsection (a)(2)(E), shall be expended solely for the
18 purposes and in the amounts found by the secretary necessary to pay any
19 principal and interest due and owing the United States department of labor
20 resulting from any advancements made to the Kansas employment security
21 fund pursuant to the provisions of title XII of the social security act (42
22 U.S.C. §§ 1321 to 1324) except as may be otherwise provided under
23 subsection (a)(2)(E). Notwithstanding any provision of this section, all
24 moneys received and credited to this fund pursuant to subsection (a)(2)(E),
25 shall remain part of the employment security interest assessment fund and
26 shall be used only in accordance with the conditions specified in
27 subsection (a)(2)(E) *On July 1, 2021, the director of accounts and reports*
28 *shall transfer all moneys in the employment security interest assessment*
29 *fund to the employment security trust fund. On July 1, 2021, all liabilities*
30 *of the employment security interest assessment fund are hereby transferred*
31 *to and imposed on the employment security trust fund, and the employment*
32 *security interest assessment fund is hereby abolished.*

33 (f) The secretary of labor shall annually prepare and submit a
34 certification as to the solvency and adequacy of the amount credited to the
35 state of Kansas' account in the federal employment security trust fund to
36 the governor and the legislative coordinating council. The certification
37 shall be submitted on or before December 1 of each calendar year and
38 shall be for the 12-month period ending on June 30 of that calendar year.
39 In arriving at the certification contributions paid on or before July 31
40 following the 12-month period ending date of June 30 shall be considered.
41 Each certification shall be used to determine the need for any adjustment
42 to schedule III in subsection (a)(4)(B) and to assist in preparing legislation
43 to accomplish any such adjustment.

1 Sec. 14. 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 or as an*
31 *improper payment, as defined in K.S.A. 2020 Supp. 44-710b(e)(2), and*
32 *amendments thereto, employer or a hearing, immediately and fully credit*
33 *any contributing employer's, governmental rated employer's or*
34 *reimbursing employer's account for any benefits paid upon a*
35 *determination by the secretary that such benefits were paid to any person*
36 *who received such benefits: (A) By fraud; or (B) in error where any*
37 *conditions imposed by this act for the receipt of benefits were not fulfilled*
38 *or where the recipient was not qualified to or disqualified from receiving*
39 *such benefits.*

40 (2) (A) *Contributing employers, rated governmental employers and*
41 *reimbursing employers shall be held harmless for and shall not be*
42 *required to reimburse the state for any benefits paid that have been*
43 *identified by the employer as fraudulent or as an improper payment, as*

1 *defined by subsection (e)(2), and reported to the secretary unless the*
2 *secretary determines that such benefits were received properly and not: (i)*
3 *By fraud; or (ii) in error where any conditions imposed by this act for the*
4 *receipt of benefits were not fulfilled or where the recipient was not*
5 *qualified to or disqualified from receiving such benefits. Any such*
6 *determination by the secretary shall be subject to appeal as provided by*
7 *the employment security law.*

8 *(B) Reimbursing employers shall be refunded immediately, without*
9 *necessity of a request or a hearing, for reimbursements made to the state*
10 *for any claims or benefits paid on or after March 15, 2020, that are or*
11 *have been reported to the secretary as fraudulent. Amounts refunded shall*
12 *become due, subject to appeal as provided by the employment security*
13 *law, upon a determination by the secretary, as provided by subparagraph*
14 *(A), that the benefits were paid properly and not by fraud or in error.*

15 *(C) For the time period of March 15, 2020, through December 31,*
16 *2022, identifications of fraud reported to the secretary pursuant to*
17 *subparagraphs (A) and (B) shall not be subject to any time limitation for*
18 *disputing a claim or for appeal pursuant to K.S.A. 44-710, and*
19 *amendments thereto, or pursuant to any other provision of the employment*
20 *security law.*

21 *(3) The secretary shall review all reimbursing employer accounts and*
22 *shall apply credit for any benefits previously paid by fraud or in error, as*
23 *provided by paragraph (1), that have been charged against a reimbursing*
24 *employer's account and have not yet been recovered through normal*
25 *recovery efforts.*

26 *(c) Judicial review. Any action of the secretary upon an employer's*
27 *timely request for a review and redetermination of its rate of contributions*
28 *or benefit liability, in accordance with subsection (a), is subject to review*
29 *in accordance with the Kansas judicial review act. Any action for such*
30 *review shall be heard in a summary manner and shall be given precedence*
31 *over all other civil cases except cases arising under ~~subsection (i) of~~*
32 *K.S.A. 44-709(i), and amendments thereto, and the workmen's*
33 *compensation act.*

34 *(e)(d) Periodic notification of benefits charged. The secretary of labor*
35 *may provide by rules and regulations for periodic notification to*
36 *employers of benefits paid and chargeable to their accounts or of the status*
37 *of such accounts, and any such notification, in the absence of an*
38 *application for redetermination filed in such manner and within such*
39 *period as the secretary of labor may prescribe, shall become conclusive*
40 *and binding upon the employer for all purposes. Such redeterminations,*
41 *made after notice and opportunity for hearing, and the secretary's findings*
42 *of facts in connection therewith may be introduced in any subsequent*
43 *administrative or judicial proceedings involving the determination of the*

1 rate of contributions of any employer for any calendar year and shall be
2 entitled to the same finality as is provided in this subsection with respect to
3 the findings of fact made by the secretary of labor in proceedings to
4 redetermine the contribution rate of an employer. The review or any other
5 proceedings relating thereto as provided for in this section may be heard
6 by any duly authorized employee of the secretary of labor and such action
7 shall have the same effect as if heard by the secretary.

8 *(e) (1) The secretary shall review the information reported by the*
9 *United States department of labor pursuant to the payment integrity*
10 *information act of 2019, public law 116-117, and any other relevant*
11 *information available from the United States department of labor and any*
12 *relevant information held by the department of labor available to the*
13 *secretary regarding improper payment amounts for the state of Kansas for*
14 *the period beginning on March 15, 2020, through December 31, 2022.*

15 *(2) If the full appropriation pursuant to section 6, and amendments*
16 *thereto, is not made, the secretary shall determine the amount of such*
17 *improper payments within 60 days of any such information becoming*
18 *available for any portion of such period and shall immediately certify such*
19 *amount for such time period to the director of accounts and reports. The*
20 *secretary shall certify any additional amount for any such time period*
21 *within 60 days of information supporting an additional amount becoming*
22 *available. At the same time that the secretary certifies the amount to the*
23 *director of accounts and reports, the secretary shall transmit a copy of*
24 *each such certification to the director of the budget and the director of*
25 *legislative research. Upon receipt of each such certification, the director*
26 *of accounts and reports shall transfer an amount equal to the amount*
27 *certified from the state general fund to the employment security fund. If the*
28 *governor determines that it is prudent for the transfer to be from a*
29 *different fund in the state treasury, the governor, with the approval of the*
30 *state finance council acting on this matter, which is hereby characterized*
31 *as a matter of legislative delegation and subject to the guidelines*
32 *prescribed in K.S.A. 75-3711c(c), and amendments thereto, may authorize*
33 *the transfer from such different fund.*

34 *(3) If the secretary recovers any improper payments from any party,*
35 *the improper payment shall be remitted to the state treasurer in*
36 *accordance with the provisions of K.S.A. 75-4215, and amendments*
37 *thereto. Upon receipt of each such remittance, the state treasurer shall*
38 *deposit the entire amount in the state treasury to the credit of the state*
39 *general fund.*

40 *(4) For purposes of this subsection and subsection (f), "improper*
41 *payment amounts" or "improper payments" means any payment that*
42 *should not have been made or that was made in an incorrect amount*
43 *under statutory, contractual, administrative or other legally applicable*

1 requirements and includes any payment to an ineligible recipient.

2 (f) (1) As soon as information, as described by subsection (e)(1),
3 regarding the total amount of fraudulent or improper payments for the
4 period of March 15, 2020, through December 31, 2022, is available to the
5 secretary, but not later than December 31, 2022, the secretary shall
6 determine the total amount and whether the amount of fraudulent or
7 improper payments for such time period is more or less than the transfer
8 made to the employment security fund pursuant to section 6, and
9 amendments thereto.

10 (2) (A) If the secretary determines that the amount of fraudulent or
11 improper payments is more than such transfer, the secretary shall certify
12 such additional amount to the director of accounts and reports. At the
13 same time that the secretary certifies the amount to the director of
14 accounts and reports, the secretary shall transmit a copy of such
15 certification to the director of the budget and the director of legislative
16 research. Upon receipt of such certification, the director of accounts and
17 reports shall transfer an amount equal to $\frac{1}{5}$ of the amount certified from
18 the state general fund to the employment security fund on or before July
19 15, 2023, July 15, 2024, July 15, 2025, July 15, 2026, and July 15, 2027.

20 (B) If the governor determines that it is prudent for a transfer made
21 pursuant to paragraph (2)(A) to be made from a different fund in the state
22 treasury, the governor, with the approval of the state finance council
23 acting on this matter, which is hereby characterized as a matter of
24 legislative delegation and subject to the guidelines prescribed in K.S.A.
25 75-3711c(c), and amendments thereto, may authorize the transfer from
26 such other fund.

27 (3) (A) If the secretary determines that the amount of fraudulent or
28 improper payments is less than such transfer, the secretary shall certify
29 such amount to the director of accounts and reports. At the same time that
30 the secretary certifies the amount to the director of accounts and reports,
31 the secretary shall transmit a copy of such certification to the director of
32 the budget and the director of legislative research. Upon receipt of such
33 certification, the director of accounts and reports shall transfer an amount
34 equal to the amount certified from the employment security fund to the
35 state general fund. Such moneys shall be designated for use for COVID-
36 19-related purposes, as provided by appropriation acts of the legislature.

37 (B) If the governor determines that it is prudent for a transfer made
38 pursuant to paragraph (3)(A) to be made to a different fund in the state
39 treasury, the governor, with the approval of the state finance council
40 acting on this matter, which is hereby characterized as a matter of
41 legislative delegation and subject to the guidelines prescribed in K.S.A.
42 75-3711c(c), and amendments thereto, may authorize the transfer to such
43 other fund.

1 (g) *Any federal unemployment insurance benefit program established*
2 *as a result of COVID-19 or any pandemic shall not be continued after the*
3 *ending date of the federal program through the use of Kansas state*
4 *unemployment insurance fund contributions made by Kansas employers.*

5 Sec. 15. K.S.A. 2020 Supp. 44-757 is hereby amended to read as
6 follows: 44-757. *Shared work unemployment compensation program.* (a)
7 As used in this section:

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

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

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

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

20 (5) "Participating employee" means an employee who works a
21 reduced number of hours under a shared work plan *initiated by their*
22 *employer and approved by the secretary.*

23 (6) "Participating employer" means an employer who has *applied to*
24 *and been approved by the secretary for* a shared work plan *that is* in effect.

25 (7) "Secretary" means the secretary of labor or the secretary's
26 designee.

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

30 (9) "Shared work plan" means a *short-term compensation* program
31 ~~for reducing unemployment under which employees who are members of~~
32 ~~an affected unit share the work remaining after a reduction in their normal~~
33 ~~weekly hours of work.~~

34 ~~(10) "Shared work unemployment compensation program" means a~~
35 ~~program designed to reduce unemployment and stabilize the work force by~~
36 ~~allowing certain employees to collect unemployment compensation~~
37 ~~benefits if the employees share the work remaining after a reduction in the~~
38 ~~total number of hours of work and a corresponding reduction in~~
39 ~~wages."Short-term compensation program" means a shared work plan~~
40 ~~program designed to provide an alternative to layoffs for employers~~
41 ~~experiencing a reduction in available work. A "short-term compensation~~
42 ~~program" preserves employees' jobs and an employer's trained workforce~~
43 ~~during times of lowered economic activity by allowing an employer to~~

1 *reduce hours of work for employees rather than laying off some employees*
2 *while others continue to work full time. Under a "short-term compensation*
3 *program," employees experiencing a reduction in hours are allowed to*
4 *collect a pro-rata share of their unemployment compensation benefits to*
5 *replace a portion of the employee's lost wages.*

6 (b) The secretary shall establish a voluntary ~~shared work~~
7 ~~unemployment~~ short-term compensation program as provided by this
8 section. The secretary may adopt rules and regulations and establish
9 procedures necessary to administer the ~~shared work unemployment~~ short-
10 term compensation program.

11 (c) *The secretary shall create and manage an annual promotional*
12 *campaign for the short-term compensation program to encourage and*
13 *improve business participation. The promotional campaign shall include*
14 *the following elements:*

15 (A) *Engagement in proactive educational communications with other*
16 *state agencies and stakeholders, including the governor's office,*
17 *legislators, workforce investment boards and local, regional or state*
18 *chambers of commerce;*

19 (B) *a dedicated department of labor employee or team to efficiently*
20 *and timely answer employer's questions about the short-term*
21 *compensation program;*

22 (C) *presentation materials that provide consistency of messaging*
23 *about the benefits of using a short-term compensation program to provide*
24 *stakeholders for distribution to employer groups, workforce investment*
25 *boards or other interested parties;*

26 (D) *proactive engagement with employers experiencing economic*
27 *stress or layoffs to share the benefits of the short-term compensation*
28 *program and to ensure such employers are aware of the program; and*

29 (E) *an automated application, claims and weekly certification*
30 *process for participating employers designed to facilitate participation,*
31 *reduce an employer's administrative burden and promote the use of the*
32 *short-term compensation program.*

33 (d) An employer who wishes to participate in the ~~shared work~~
34 ~~unemployment~~ short-term compensation program must submit a written
35 shared work plan to the secretary for the secretary's approval. As a
36 condition for approval, a participating employer must agree to furnish the
37 secretary with reports relating to the operation of the shared work plan as
38 requested by the secretary. The employer shall monitor and evaluate the
39 operation of the established shared work plan as requested by the secretary
40 and shall report the findings to the secretary.

41 ~~(d)~~(e) The secretary may approve a shared work plan if:

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

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

3 (3) the shared work plan reduces the normal weekly hours of work
4 for an employee, including regular part-time employees, in the affected
5 unit by not less than ~~20%~~ 10% and not more than ~~40%~~ 50%;

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

8 (5) the shared work plan describes the manner that the participating
9 employer treats the fringe benefits of each employee in the affected unit
10 and the employer certifies that if the employer provides health benefits and
11 retirement benefits under a defined benefit plan, as defined in 26 U.S.C. §
12 414(j), or contributions under a defined contribution plan, as defined in 26
13 U.S.C. § 414(i), to any employee whose workweek is reduced under the
14 program that such benefits will continue to be provided to employees
15 participating in the ~~shared work~~ short-term compensation program under
16 the same terms and conditions as though the workweek of such employee
17 had not been reduced or to the same extent as other employees not
18 participating in the shared work program;

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

23 (7) the employer has filed all reports required to be filed under the
24 employment security law for all past and current periods and has paid all
25 contributions, benefit cost payments, or if a reimbursing employer has
26 made all payments in lieu of contributions due for all past and current
27 periods;

28 (8) (A) a contributing employer must be eligible for a rate
29 computation under K.S.A. 44-710a(a)(2), and amendments thereto, and the
30 contributing employer, as determined by the secretary, does not adversely
31 impact the state's eligibility under section 2108 of the federal CARES act,
32 public law 116-136;

33 (B) *if section 2108 of the federal CARES act, public law 116-136, is*
34 *no longer in effect, a contributing employer eligible for a rate computation*
35 *under K.S.A. 44-710(a)(2), and amendments thereto, that is a negative*
36 *account employer as defined by K.S.A. 44-710a(d), and amendments*
37 *thereto, may only be approved for a shared work application if the*
38 *negative account employer's most recent calculated reserve ratio has*
39 *improved from the previous reporting year's reserve ratio;*

40 (C) a rated governmental employer must be eligible for a rate
41 computation under K.S.A. 44-710d(g), and amendments thereto;

42 (9) eligible employees may participate, as appropriate, in training,
43 including without limitation, employer-sponsored training or worker

1 training funded under the workforce investment act of 1998, to enhance
2 job skills if such program has been approved by the state of Kansas;

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

8 (11) the terms of the employer's written plan and implementation are
9 consistent with employer obligations under applicable federal and Kansas
10 laws.

11 ~~(e)~~(f) If any of the employees who participate in a shared work plan
12 under this section are covered by a collective bargaining agreement, the
13 shared work plan must be approved in writing by the collective bargaining
14 agent.

15 ~~(f)~~(g) A shared work plan may not be implemented to subsidize
16 seasonal employers during the off-season.

17 ~~(g)~~(h) The secretary shall approve or deny a shared work plan no later
18 than the 30th day after the day the shared work plan is received by the
19 secretary. The secretary shall approve or deny a shared work plan in
20 writing. If the secretary denies a shared work plan, the secretary shall
21 notify the employer of the reasons for the denial.

22 ~~(h)~~(i) A shared work plan is effective on the date it is approved by the
23 secretary, except for good cause a shared work plan may be effective at
24 any time within a period of 14 days prior to the date such plan is approved
25 by the secretary. The shared work plan expires on the last day of the 12th
26 full calendar month after the effective date of the shared work plan.

27 ~~(i)~~(j) An employer may modify a shared work plan created under this
28 section to meet changed conditions if the modification conforms to the
29 basic provisions of the shared work plan as approved by the secretary. The
30 employer must report the changes made to the shared work plan in writing
31 to the secretary before implementing the changes. If the original shared
32 work plan is substantially modified, the secretary shall reevaluate the
33 shared work plan and may approve the modified shared work plan if it
34 meets the requirements for approval under subsection (d). The approval of
35 a modified shared work plan does not affect the expiration date originally
36 set for that shared work plan. If substantial modifications cause the shared
37 work plan to fail to meet the requirements for approval, the secretary shall
38 deny approval to the modifications as provided by subsection (g).

39 ~~(j)~~(k) Notwithstanding any other provisions of the employment
40 security law, an individual is unemployed and is eligible for shared work
41 benefits in any week in which the individual, as an employee in an affected
42 unit, works for less than the individual's normal weekly hours of work in
43 accordance with an approved shared work plan in effect for that week. The

1 secretary may not deny shared work benefits for any week to an otherwise
 2 eligible individual by reason of the application of any provision of the
 3 employment security law that relates to availability for work, active search
 4 for work or refusal to apply for or accept work with an employer other
 5 than the participating employer.

6 ~~(k)~~(l) An individual is eligible to receive shared work benefits with
 7 respect to any week in which the secretary finds that:

8 (1) *The employee is determined to be eligible for unemployment*
 9 *compensation, except that while receiving shared work benefits, an*
 10 *employee shall not be required to meet work availability or work search*
 11 *requirements but shall be required to be available for the employee's*
 12 *normal work week;*

13 (2) The individual is employed as a member of an affected unit
 14 subject to a shared work plan that was approved before the week in
 15 question and is in effect for that week;

16 ~~(2)~~(3) the individual is able to work and is available for additional
 17 hours of work or full-time work with the participating employer;

18 ~~(3)~~(4) the individual's normal weekly hours of work have been
 19 reduced by at least ~~20%~~ 10% but not more than ~~40%~~ 50%, with a
 20 corresponding reduction in wages; and

21 ~~(4)~~(5) the individual's normal weekly hours of work and wages have
 22 been reduced as described in subsection (k)~~(3)~~(4) for a waiting period of
 23 one week that occurs within the period the shared work plan is in effect,
 24 which period includes the week for which the individual is claiming shared
 25 work benefits.

26 ~~(h)~~(m) The secretary shall pay an individual who is eligible for shared
 27 work benefits under this section a weekly shared work benefit amount
 28 equal to the individual's regular weekly benefit amount for a period of total
 29 unemployment multiplied by the nearest full percentage of reduction of the
 30 individual's hours as set forth in the employer's shared work plan. If the
 31 shared benefit amount is not a multiple of \$1, the secretary shall reduce the
 32 amount to the next lowest multiple of \$1. All shared work benefits under
 33 this section shall be payable from the fund.

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

38 ~~(n)~~(o) An individual who has received all of the shared work benefits
 39 and regular unemployment compensation benefits available in a benefit
 40 year is an exhaustee under K.S.A. 44-704a and 44-704b, and amendments
 41 thereto, and is entitled to receive extended benefits under such statutes if
 42 the individual is otherwise eligible under such statutes.

43 ~~(o)~~(p) The secretary may terminate a shared work plan for good cause

1 if the secretary determines that the shared work plan is not being executed
2 according to the terms and intent of the shared work unemployment
3 compensation program.

4 ~~(p)~~(q) Notwithstanding any other provisions of this section, an
5 individual shall not be eligible to receive shared work benefits for more
6 than ~~26~~ 52 calendar weeks during the 12-month period of the shared work
7 plan, ~~except that two weeks of additional benefits shall be payable to~~
8 ~~claimants who exhaust regular benefits and any benefits under any other~~
9 ~~federal or state extended benefits program during the period July 1, 2003~~
10 ~~through June 30, 2004.~~ No week shall be counted as a week for which an
11 individual is eligible for shared work benefits for the purposes of this
12 section unless the week occurs within the 12-month period of the shared
13 work plan.

14 ~~(q)~~(r) No shared work benefit payment shall be made under any
15 shared work plan or this section for any week that commences before April
16 1, 1989.

17 ~~(r)~~(s) This section shall be construed as part of the employment
18 security law.

19 Sec. 16. K.S.A. 44-758 is hereby amended to read as follows: 44-758.

20 (a) Any employer or any individual, organization, partnership, corporation
21 or other legal entity ~~which that~~ is a lessor employing unit, as defined by
22 ~~subsection (ff)~~ of K.S.A. 44-703(ff), and amendments thereto, shall be
23 liable for contributions on wages paid by the lessor employing unit to
24 individuals performing services for client lessees. ~~For the purposes of the~~
25 ~~employment security law, no client lessee shall lease an individual~~
26 ~~proprietor, partner or corporate officer, who is a shareholder or a member~~
27 ~~of the board of directors of the corporation, from any lessor employing~~
28 ~~unit.~~ Any client lessee shall be jointly and severally liable for any unpaid
29 contributions, interest and penalties due under this law from any lessor
30 employing unit attributable to wages for services performed for the client
31 lessee by employees leased to the client lessee. The lessor employing unit
32 shall keep separate records and submit separate quarterly contributions and
33 wage reports for each client lessee.

34 (b) Any lessor employing unit ~~which that~~ is currently engaged in the
35 business of leasing employees to client lessees shall comply with the
36 provisions of subsection (a) prior to October 1, 1990.

37 (c) The provisions of this section shall not be applicable to private
38 employment agencies ~~which that~~ provide temporary workers to employers
39 on a temporary help basis, provided the private employment agencies are
40 liable as employers for the payment of contributions on wages paid to
41 temporary workers so employed.

42 (d) This section shall be construed as part of the employment security
43 law.

1 Sec. 17. K.S.A. 44-758 and K.S.A. 2020 Supp. 44-703, 44-704, 44-
2 705, 44-709, 44-710, 44-710a, 44-710b and 44-757 are hereby repealed.

3 Sec. 18. This act shall take effect and be in force from and after its
4 publication in the Kansas register.