Substitute for HOUSE BILL No. 2196

By Committee on Commerce, Labor and Economic Development

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

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

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

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

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

(C) the chairpersons of the standing committees of the senate and the
house of representatives to which legislation pertaining to the employment
customarily referred, appointed by the president of the
senate and the speaker of the house of representatives, respectively;
(D) two members of the senate appointed by the president of the
senate, one of whom is a member of the majority party and one of whom is
a member of the minority party;
(E) two members of the house of representatives appointed by the
speaker of the house of representatives, one of whom is a member of the
majority party and one of whom is a member of the minority party; and
(F) the secretary of labor or a designee of the secretary who has
administrative responsibilities with respect to the unemployment insurance
compensation system of the department of labor.
(2) In the event the governor fails to appoint a member selected by
the workers compensation and employment security boards nominating
committee, the committee may replace that selection with another, subject
to the same appointment requirements. Members of the council appointed
by the governor shall serve for a term of four years, and each term shall
end on the same day as the date of their original appointment. When an
employer representative vacancy or employee representative vacancy on
the council occurs, the workers compensation and employment security
boards nominating committee shall convene and submit a nominee to the
governor for appointment.
(3) Legislative members shall serve during the legislative session in
which they are appointed to the council and shall remain members of the
legislature in order to retain membership on the council. Vacancies of
legislative members during a term shall be filled in the same manner as the
original appointment only for the unexpired part of the term.
(b) All other members shall serve for three years or until the council
is dissolved, whichever is shorter. Vacancies of non legislative members
shall be filled in the same manner as the original appointment only for the
unexpired part of the term.
(c) The council shall be dissolved and the provisions of this section
pertaining to the establishment, function and operation of the council shall
no longer be in effect after three years from the date of the council's first
meeting.
(d) Each member of the council shall be entitled to receive
compensation for the member's services, together with the member's travel
and other necessary expenses actually incurred in the performance of the
member's official duties, in accordance with rules and regulations adopted
by the council. Members' compensation and expenses shall be paid from
the employment security administration fund or any account of the state
general fund of the department of labor, as designated by the secretary.
(e) The members who are the chairpersons of the standing
committees of the senate and the house of representatives to which legislation pertaining to employment security law is customarily referred shall jointly call the first meeting of the council. The council shall annually organize itself and select a chairperson. Six members shall constitute a quorum, and the council shall act only on the affirmative vote of six members. A vacancy on the council shall not impair the right of a quorum, to exercise all the rights and perform all the duties of the council. The council shall meet as often as necessary to perform its duties.

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

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

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

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

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

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

(1) Maintaining council agendas and assisting in planning meetings and conferences;
(2) attending meetings and keeping minutes;
(3) receiving and screening phone calls and redirecting phone calls when appropriate;
(4) handling and prioritizing all official outgoing or incoming regular mail or electronic correspondence;
(5) making travel arrangements for members related to council business;
(6) handling confidential documents and ensuring they remain secure;
(7) maintaining electronic and paper records and ensuring such information is organized and easily accessible; and
(8) conducting research and preparing presentations or reports as assigned by the chairperson or the secretary of labor.
(j) (1) The council shall only have access to records of the department of labor that are necessary for the administration and duties of the council. The council shall not have access to any confidential or personal identifying information. The council may request that the secretary of labor, department of labor employee or any private or public employer or employee with information of value to the council appear before the council and testify to matters within the council's purview. At least once per year, the council shall allow members of the public to appear before the council to testify on any such matters.

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

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

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

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

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

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

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

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

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

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

(B) employees employed by other state agencies; and

(C) employees provided by private entities.

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

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

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

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

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

(c) The information technology system, technology and platform shall include, but not be limited to, the following components, as defined by the unemployment compensation modernization and improvement council established by section 1, and amendments thereto, in consultation with the secretary:
(1) Component-centric architecture;
(2) configurability;
(3) results-driven customer empowerment;
(4) extensibility;
(5) reporting;
(6) adaptable and scalable platform;
(7) enterprise service bus;
(8) version control;
(9) change control;
(10) multi-speed information technology;
(11) data migration or data architecture; and
(12) legacy integration.

d) The new system shall include, but not be limited to, the following features and benefits, as defined by the unemployment compensation modernization and improvement council established by section 1, and amendments thereto, in consultation with the secretary:

(1) Benefit claims and payment management, including:

(A) Claims management;
(B) eligibility and payment processes;
(C) monetary and non-monetary determinations;
(D) overpayment and collections management;
(E) fraud prevention; and
(F) accounting and auditing;

(2) integrated tax management functionality, including:

(A) Account registration;
(B) tax and wage reports;
(C) adjustments and payments;
(D) delinquencies and collections; and
(E) tax audit assignments; and

(3) tax performance systems, including:

(A) Comprehensive appeals filing and tracking;
(B) appeal filing and management;
(C) hearings and decisions;
(D) correspondence and notices;
(E) integrated workflow;
(F) self-service features;
(G) federal reporting; and
(H) automated work opportunity tax credit eligibility determination.

e) The secretary shall implement and utilize all program integrity elements and guidance issued by the United States department of labor and the national association of state workforce agencies, including the integrity data hub, within 60 days of the issuance of such guidance. The secretary shall implement and utilize the following specific program integrity
elements:

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

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

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

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

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

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

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

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

(g) The department of labor shall have the authority to execute a memorandum of understanding with any department, agency or agency division for information required to be shared between agencies pursuant to the provisions of this section. Such rules and regulations shall be adopted within 12 months of the effective date of this act.

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

(i) The secretary of labor shall provide an annual status update and progress report regarding the requirements of this section to the unemployment compensation modernization and improvement council and the legislative coordinating council.
(j) This section shall be a part of and supplemental to the employment security law.

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

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

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

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

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

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

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

(A) The rate group;

(B) the reserve ratio lower limit;

(C) the number of accounts;

(D) the taxable wages by fiscal year;

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

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

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

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

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

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

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

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

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

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

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

(b) The secretary of labor and the secretary of commerce shall jointly implement a work skills training or retraining program for claimants in collaboration with the Kansasworks workforce system. The program shall be developed in collaboration with Kansas employers and other state or federal agencies or organizations as appropriate. The secretary of labor and
the secretary of commerce shall seek to obtain or utilize any available
federal funds for such program, and to the extent feasible, the secretary of
commerce may make current work skills training and retraining programs
available to claimants. The secretary of labor may allow claimants to
participate in a work skills training or retraining program offered by the
secretary of labor, the secretary of commerce or by another state or federal
agency in lieu of requiring the claimant to meet job search requirements of
the employment security law and the requirements of the my
reemployment plan until the number of allowed benefit weeks has expired.
A claimant shall participate in such a program for not less than 25 hours
per week. The secretary of labor shall monitor claimants who are
participating in a work skills training or retraining program to ensure
attendance and progress.

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

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

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

New Sec. 6. Notwithstanding the provisions of chapter 1 of the 2020
Special Session Laws of Kansas, any other statute or any other provision
of this act, for the fiscal years ending June 30, 2021, and June 30, 2022, on
or before July 15, 2021, the director of the budget shall determine the
amount of moneys received by the state that are identified as moneys from
the federal government for aid to the state of Kansas for coronavirus relief
as appropriated in the following acts that are eligible to be used for
employment security, may be expended at the discretion of the state and
are unencumbered: (1) The federal CARES act, public law 116-136, the
federal coronavirus preparedness and response supplemental appropriation
act, 2020, public law 116-123, the federal families first coronavirus response act, public law 116-127, and the federal paycheck protection program and health care enhancement act, public law 116-139; (2) the federal consolidated appropriations act, 2021, public law 116-260; and (3) any other federal law that appropriates moneys to the state for aid for coronavirus relief. Of such identified moneys, the director of the budget shall determine in the aggregate an amount equal to $450,000,000 available in special revenue funds. The director of the budget shall certify the amount so determined from each fund to the director of accounts and reports and, at the same time as such certification is transmitted to the director of accounts and reports, shall transmit a copy of such certification to the director of legislative research. Upon receipt of each such certification, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer an aggregate amount equal to $450,000,000 from such funds to the employment security fund (296-00-7056-7200) of the department of labor.

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

(1) The amount of claims for the 12-month period ending on June 30 of the previous calendar year;
(2) The actual and projected amount of claims for the 12-month period beginning on July 1 of the previous calendar year;
(3) the amount of employer contributions for the 12-month period ending on June 30 of the previous calendar year and current employer contribution rates;
(4) The actual and projected amount of employer contributions for the 12-month period beginning on July 1 of the previous calendar year and ending on June 30 of the current calendar year and projected employer contribution rates for the next succeeding calendar year.
(5) the balance of the employment security trust fund on June 30 of the previous calendar year and the current balance of the fund; and
(6) the projected balance of the employment security trust fund on June 30 of the current calendar year and on January 1 of the next succeeding calendar year.

(b) In arriving at the amount of employer contributions to the employment security trust fund pursuant to subsection (a)(3), and the projected amount of employer contributions pursuant to subsection (a)(4),
contributions paid or projected to be paid on or before July 31 following the respective 12-month period ending date of June 30 shall be considered.

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

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

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

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

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

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

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

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

(1) If an individual lacks sufficient base period wages in order to establish a benefit year in the manner set forth above and satisfies the requirements of subsection (g) of K.S.A. 44-705(g) and subsection (hh) of K.S.A. 44-703(hh), and amendments thereto, the claimant shall have an alternative base period substituted for the current base period so as not to prevent establishment of a valid claim. For the purposes of this subsection, "alternative base period" means the last four completed quarters
immediately preceding the date the qualifying injury occurred. In the event
the wages in the alternative base period have been used on a prior claim,
then they shall be excluded from the new alternative base period.

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

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

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

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

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

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

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

(g) "Employing unit" means any individual or type of organization,
including any partnership, association, limited liability company, agency
or department of the state of Kansas and political subdivisions thereof, 
trust, estate, joint-stock company, insurance company or corporation, 
whether domestic or foreign including nonprofit corporations, or the 
receiver, trustee in bankruptcy, trustee or successor thereof, or the legal 
representatives of a deceased person., which that has in its employ one or 
more individuals performing services for it within this state. All 
individuals performing services within this state for any employing unit 
which that maintains two or more separate establishments within this state 
shall be deemed to be employed by a single employing unit for all the 
purposes of this act. Each individual employed to perform or to assist in 
performing the work of any agent or employee of an employing unit shall 
be deemed to be employed by such employing unit for all the purposes of 
this act, whether such individual was hired or paid directly by such 
employing unit or by such agent or employee, provided the employing unit 
had actual or constructive knowledge of the employment.

(h) "Employer" means:

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

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

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

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

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

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

(ii) such other person shall be treated as having paid cash 
remuneration to such individual in an amount equal to the amount of cash
remuneration paid to such individual by the crew leader, either on the crew
leader's own behalf or on behalf of such other person, for the service
services in agricultural labor performed for such other person.

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

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

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

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

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

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

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

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

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

(5) Any employing unit—which that paid cash remuneration of $1,000
or more in any calendar quarter in the current or preceding calendar year to
individuals employed in domestic service as defined in subsection (aa) of
this section.

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

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

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

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

(i) "Employment" means:

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

(A) Any active officer of a corporation; or

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

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

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

(ii) as a traveling or city salesman, other than as an agent-driver or
commission-driver, engaged upon a full-time basis in the solicitation on
behalf of, and the transmission to, a principal- except for side-line sales
activities on behalf of some other person), of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations.

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

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

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

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

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

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

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

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

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

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

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

(C) Services covered by an arrangement pursuant to subsection (l) of K.S.A. 44-714(j), and amendments thereto, between the secretary and the agency charged with the administration of any other state or federal unemployment compensation law, pursuant to which all services performed by an individual for an employing unit are deemed to be performed entirely within this state, shall be deemed to be employment if
the secretary has approved an election of the employing unit for whom
such services are performed, pursuant to which the entire service of such
individual during the period covered by such election is deemed to be
insured work.

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

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

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

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

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

(ii) the employer has no place of business in the United States, but:
(a) The employer is an individual who is a resident of this state;
(b) the employer is a corporation which is organized under the laws
of this state; or

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

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

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

(i) An individual who is a resident of the United States;
(ii) a partnership if ⅔ or more of the partners are residents of the
United States;
(iii) a trust, if all of the trustees are residents of the United States; or
(iv) a corporation organized under the laws of the United States or of
any state.

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

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

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

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

(i) As an elected official;
(ii) as a member of a legislative body, or a member of the judiciary, of
a state, political subdivision or of an Indian tribe;
(iii) as a member of the state national guard or air national guard;
(iv) as an employee serving on a temporary basis in case of fire,
storm, snow, earthquake, flood or similar emergency;
(v) in a position which, under or pursuant to the laws of this state or tribal law, is designated as a major nontenured policymaking or advisory position or as a policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight hours per week;

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

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

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

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

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

(G) services performed by an individual for an employing unit as an insurance agent or as an insurance solicitor, if all such service performed by such individual for such employing unit is performed for
remuneration solely by way of commission;

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

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

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

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

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

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

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

(M) services performed by an inmate of a custodial or
correctional institution;

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

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

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

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

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

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

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

(S) services performed by an oil and gas contract pumper. As used in this subsection (i)(4)(S), "oil and gas contract pumper" means a person performing pumping and other services on one or more oil or gas leases, or
on both oil and gas leases, relating to the operation and maintenance of
such oil and gas leases, on a contractual basis for the operators of such oil
and gas leases and “services” shall not include services performed for a
governmental entity or any organization described in section 501(c)(3) of
the federal internal revenue code of 1986—which that is exempt from
income taxation under section 501(a) of the code;

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

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

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

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

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

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

(i) Such person:

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

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

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

(iii) the services performed by the person are performed pursuant to a
written contract between such person and the person for whom the services
are performed and such contract provides that the person will not be
treated as an employee for federal and state tax purposes;

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

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

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

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

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

(i) Negotiating for the acquisition or divestiture of mineral rights;
(ii) negotiating business agreements that provide exploration for or
development of minerals;
(iii) determining ownership in minerals through the research of
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public and private records;

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

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

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

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

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

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

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

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

(o) "Wages" means all compensation for services, including
commissions, bonuses, back pay and the cash value of all remuneration,
including benefits, paid in any medium other than cash. The reasonable
cash value of remuneration in any medium other than cash, shall be
estimated and determined in accordance with rules and regulations
prescribed by the secretary. Compensation payable to an individual which
that has not been actually received by that individual within 21 days after
the end of the pay period in which the compensation was earned shall be
considered to have been paid on the 21st day after the end of that pay
period. Effective January 1, 1986, gratuities, including tips received from
persons other than the employing unit, shall be considered wages when
reported in writing to the employer by the employee. Employees must
furnish a written statement to the employer, reporting all tips received if
they total $20 or more for a calendar month whether the tips are received
directly from a person other than the employer or are paid over to the
employee by the employer. This includes amounts designated as tips by a
customer who uses a credit card to pay the bill. Notwithstanding the other
provisions of this subsection (o), wages paid in back pay awards or
settlements shall be allocated to the week or weeks and reported in the
manner as specified in the award or agreement, or, in the absence of such
specificity in the award or agreement, such wages shall be allocated to the
week or weeks in which such wages, in the judgment of the secretary,
would have been paid. The term "wages" shall not include:

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

(2) the amount of any payment—\textit{which that} includes any amount paid by an
employing unit for insurance or annuities, or into a fund, to provide for
any such payment, made to, or on behalf of, an employee or any of such
employee's dependents under a plan or system established by an employer
which \textit{that} makes provisions for employees generally, for a class or classes
of employees or for such employees or a class or classes of employees and
their dependents, on account of: (A) Sickness or accident disability, except
in the case of any payment made to an employee or such employee's
dependents, this subparagraph shall exclude from the term "wages" only
payments which are received under a workers compensation law. Any third party which makes a payment included as wages by reason of this subparagraph (2)(A) shall be treated as the employer with respect to such wages; or (B) medical and hospitalization expenses in connection with sickness or accident disability; or (C) death;

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

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

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

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

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

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

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

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

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

(5) the payment by an employing unit-€, without deduction from the
remuneration of the employee), of the tax imposed upon an employee
under section 3101 of the federal internal revenue code of 1986 with
respect to remuneration paid to an employee for domestic service in a
private home of the employer or for agricultural labor;
(6) remuneration paid in any medium other than cash to an employee
for service not in the course of the employer's trade or business;
(7) remuneration paid to or on behalf of an employee if and to the
extent that at the time of the payment of such remuneration it is reasonable
to believe that a corresponding deduction is allowable under section 217 of
the federal internal revenue code of 1986 relating to moving expenses;
(8) any payment or series of payments by an employer to an
employee or any of such employee's dependents which is paid:
(A) Upon or after the termination of an employee's employment
relationship because of (i) death or (ii) retirement for disability; and
(B) under a plan established by the employer which makes
provisions for employees generally, a class or classes of employees or for
such employees or a class or classes of employees and their dependents,
other than any such payment or series of payments which would have
been paid if the employee's employment relationship had not been so
terminated;
(9) remuneration for agricultural labor paid in any medium other than
cash;
(10) any payment made, or benefit furnished, to or for the benefit of
an employee if at the time of such payment or such furnishing it is
reasonable to believe that the employee will be able to exclude such
payment or benefit from income under section 129 of the federal internal
revenue code of 1986 which relates to dependent care assistance
programs;
(11) the value of any meals or lodging furnished by or on behalf of
the employer if at the time of such furnishing it is reasonable to believe
that the employee will be able to exclude such items from income under
section 119 of the federal internal revenue code of 1986;
(12) any payment made by an employer to a survivor or the estate of
a former employee after the calendar year in which such employee died;
(13) any benefit provided to or on behalf of an employee if at the time
such benefit is provided it is reasonable to believe that the employee will
be able to exclude such benefit from income under section 74(c), 117 or
132 of the federal internal revenue code of 1986;
(14) any payment made, or benefit furnished, to or for the benefit of
an employee, if at the time of such payment or such furnishing it is
reasonable to believe that the employee will be able to exclude such
payment or benefit from income under section 127 of the federal internal
revenue code of 1986 relating to educational assistance to the employee; or
(15) any payment made to or for the benefit of an employee if at the
time of such payment it is reasonable to believe that the employee will be
able to exclude such payment from income under section 106(d) of the
federal internal revenue code of 1986 relating to health savings accounts.

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

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

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

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

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

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

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

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

(1) Admits as regular students only individuals having a certificate of
graduation from a high school, or the recognized equivalent of such a
(2) is legally authorized in this state to provide a program of education beyond high school;

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

(4) is a public or other nonprofit institution.

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

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

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

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

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

(C) In connection with the production or harvesting of any commodity defined as an agricultural commodity in section (15)(g) of the agricultural marketing act, as amended (46 Stat. 1500, sec. 3; 12 U.S.C. § 1141j), or in connection with the ginning of cotton, or in connection with
the operation or maintenance of ditches, canals, reservoirs or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes.

(D) (i) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than ½ of the commodity with respect to which such service is performed;

(ii) in the employ of a group of operators of farms or a cooperative organization of which such operators are members, in the performance of service services described in paragraph (i) above of this subsection (w)(1) (D), but only if such operators produced more than ½ of the commodity with respect to which such service is performed;

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

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

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

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

(4) For the purpose of this section, if an employing unit does not maintain sufficient records to separate agricultural labor from other employment, all services performed during any pay period by an individual for the person employing such individual shall be deemed to be agricultural labor if services performed during ½ or more of such pay period constitute agricultural labor; but if the services performed during more than ½ of any such pay period by an individual for the person employing such individual do not constitute agricultural labor, then none of the services of such individual for such period shall be deemed to be agricultural labor. As used in this subsection (w), the term "pay period" means a period of not more than 31 consecutive days for which a payment of remuneration is ordinarily made to the individual by the person employing such individual.
(x) "Reimbursing employer" means any employer who makes payments in lieu of contributions to the employment security fund as provided in subsection (e) of K.S.A. 44-710(e), and amendments thereto.

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

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

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

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

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

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

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

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

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

(hh) "Qualifying injury" means a personal injury by accident arising out of and in the course of employment within the coverage of the Kansas workers compensation act, K.S.A. 44-501 et seq., and amendments thereto.
Sec. 9. K.S.A. 2020 Supp. 44-704 is hereby amended to read as follows: 44-704. (a) Payment of benefits. All benefits provided herein shall be payable from the fund. All benefits shall be paid through the secretary of labor, in accordance with such rules and regulations as the secretary may adopt. Benefits based on service in employment defined in K.S.A. 44-703(i)(3)(E) and (i)(3)(F), and amendments thereto, shall be payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the basis of other service subject to this act except as provided in K.S.A. 44-705(e) and 44-711(e), and amendments thereto.

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

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

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

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

(c) Maximum weekly benefit amount. (1) For initial claims effective prior to July 1, 2015, the maximum weekly benefit amount shall be determined as follows: On July 1 of each year, the secretary shall determine the maximum weekly benefit amount by computing 60% of the average weekly wages paid to employees in insured work during the previous calendar year and shall, prior to that date, announce the maximum weekly benefit amount so determined, by publication in the Kansas register. Such computation shall be made by dividing the gross wages reported as paid for insured work during the previous calendar year by the product of the average of mid-month employment during such calendar year multiplied by 52. The maximum weekly benefit amount so determined and announced for the twelve-month period shall apply only to those claims filed in that period qualifying for maximum payment under the foregoing formula. All claims qualifying for payment at the maximum weekly benefit amount shall be paid at the maximum weekly benefit amount in effect when the benefit year to which the claim relates was first established, notwithstanding a change in the maximum benefit amount for a subsequent twelve-month period. If the computed maximum weekly benefit amount is not a multiple of $1, then the computed maximum weekly benefit amount shall be reduced to the next lower multiple of $1.
(2) For initial claims effective on or after July 1, 2015, the maximum weekly benefit amount shall be determined as follows: On July 1 of each year, the secretary shall determine the maximum weekly benefit amount by computing 55% of the average weekly wages paid to employees in insured work during the previous calendar year, but not to be less than $474, and shall, prior to that date, announce the maximum weekly benefit amount so determined by publication in the Kansas register. Such computation shall be made by dividing the gross wages reported as paid for insured work during the previous calendar year by the product of the average of mid-month employment during such calendar year multiplied by 52. The maximum weekly benefit amount so determined and announced for the 12-month period shall apply only to those claims filed in that period qualifying for maximum payment under the foregoing formula. All claims qualifying for payment at the maximum weekly benefit amount shall be paid at the maximum weekly benefit amount in effect when the benefit year to which the claim relates was first established, notwithstanding a change in the maximum benefit amount for a subsequent 12-month period. If the computed maximum weekly benefit amount is not a multiple of $1, then the computed maximum weekly benefit amount shall be reduced to the next lower multiple of $1.

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

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

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

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

(A) Vacation or holiday pay that was attributable to a week that the
individual claimed benefits; and

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

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

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

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

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

(D) moneys received as federal social security payments.

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

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

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

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

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

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

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

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

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

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

(m) Upon the secretary of labor's receipt of notification that the
claimant has become employed, the secretary shall notify the secretary of
the department for children and families in order that the secretary for
children and families may determine the claimant's eligibility for state or
federal benefits provided or facilitated by the department for children and
families. The department of labor and the department for children and
families.
families shall enter into a memorandum of understanding that shall provide for the transfer of information as provided in this subsection.

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

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

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

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

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

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

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

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

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

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

(2) The secretary shall develop and implement procedures to address claimants who refuse to return to suitable work or refuse to accept an offer of suitable work without good cause. Such procedures shall include the receipt and processing of job refusal reports from employers, the evaluation of such reports in consideration of the claimant's work history
and skills and suitability of the offered employment and guidelines for a
determination of whether the claimant shall remain eligible for
unemployment benefits or has failed to meet the work search requirements
of this subsection or the requirements of K.S.A. 2020 Supp. 44-706(c), and
amendments thereto. In determining whether the employment offered is
suitable, the secretary's considerations shall include whether the
employment offers wages comparable to the claimant's recent employment
and work duties that correspond to the claimant's education level and
previous work experience. The secretary shall also consider whether the
employment offers wages of at least the amount of the claimant's
maximum weekly benefits.

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

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

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

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

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

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

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

(d) (1) Except as provided further, the claimant has been unemployed
for a waiting period of one week or the claimant is unemployed and has
satisfied the requirement for a waiting period of one week under the shared
work unemployment compensation program as provided in K.S.A. 44-757(k)(4), and amendments thereto, and that period of one week, in either case, occurs within the benefit year that includes the week for which the claimant is claiming benefits. No week shall be counted as a week of unemployment for the purposes of this subsection:

(A) If benefits have been paid for such week;
(B) if the individual fails to meet with the other eligibility requirements of this section; or
(C) if an individual is seeking unemployment benefits under the unemployment compensation law of any other state or of the United States, except that if the appropriate agency of such state or of the United States finally determines that the claimant is not entitled to unemployment benefits under such other law, this subparagraph shall not apply.

(2) (A) The waiting week requirement of paragraph (1) shall not apply to:
(i) New claims by claimants who become unemployed as a result of an employer terminating business operations within this state, declaring bankruptcy or initiating a work force reduction pursuant to public law 100-379, the federal worker adjustment and retraining notification act, 29 U.S.C. §§ 2101 through 2109, as amended; or
(ii) new claims filed on or after April 5, 2020, through December 26, 2020, in accordance with the families first coronavirus response act, public law 116-127 and the federal CARES act, public law 116-136.
(B) The secretary shall adopt rules and regulations to administer the provisions of this paragraph.

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

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

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

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

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

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

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

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

(b) Determination. (1) Except as otherwise provided in this
paragraph, a representative designated by the secretary, and hereinafter
referred to as an examiner, shall promptly examine the claim and, on the
basis of the facts found by the examiner, shall determine whether or not
the claim is valid. If the examiner determines that the claim is valid, the
examiner shall determine the first day of the benefit year, the weekly
benefit amount and the total amount of benefits payable with respect to the
benefit year. If the claim is determined to be valid, the examiner shall send
a notice to the last employing unit who shall respond within 10 days by
providing the examiner all requested information including all information
required for a decision under K.S.A. 44-706, and amendments thereto. The
information may be submitted by the employing unit in person at an
employment office of the secretary or by mail, by telefacsimile machine or
by electronic mail. If the required information is not submitted or
postmarked within a response time limit of 10 days after the examiner's notice was sent, the employing unit shall be deemed to have waived its standing as a party to the proceedings arising from the claim and shall be barred from protesting any subsequent decisions about the claim by the secretary, a referee, the employment security board of review or any court, except that the employing unit's response time limit may be waived or extended by the examiner or upon appeal, if timely response was impossible due to excusable neglect. In any case in which the payment or denial of benefits will be determined by the provisions of K.S.A. 44-706(d), and amendments thereto, the examiner shall promptly transmit the claim to a special examiner designated by the secretary to make a determination on the claim after the investigation as the special examiner deems necessary. The parties shall be promptly notified of the special examiner's decision and any party aggrieved by the decision may appeal to the referee as provided in subsection (c). The claimant and the claimant's most recent employing unit shall be promptly notified of the examiner's or special examiner's decision.

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

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

(c) Appeals. Unless the appeal is withdrawn, a referee, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and decision of the examiner or special examiner. The parties shall be duly notified of the referee's decision, together with the reasons for the decision. The decision shall be final, notwithstanding the provisions of any other statute, unless a further appeal to the employment security board of review is filed within 16 calendar days after the mailing of the decision to the parties' last known addresses or, if notice is not by mail, within 16 calendar days after the delivery of the decision, except that the time limit for appeal may be waived or extended by the referee or board of review if a timely response was impossible due to excusable neglect.
(d) **Referees.** The secretary shall appoint, in accordance with K.S.A. 44-714(c), and amendments thereto, one or more referees to hear and decide disputed claims.

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

(f) **Board of review.**—(1) There is hereby created an employment security board of review, hereinafter referred to as the board, consisting:
   
   (A) Except as provided in subparagraph (B), the board shall consist of three members. Each member of the board shall be appointed for a term of four years as provided in this subsection. Not more than two members of the board shall belong to the same political party.

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

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

   (3) No member of the employment security board of review shall serve more than two consecutive terms. This paragraph shall not apply to members of the board appointed under subsection (f)(1)(B)(ii). The service of a board member appointed under subsection (f)(1)(B)(ii) shall not
constitute a term as contemplated in this paragraph.

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

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

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

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

(8) A simple majority of the members of the employment security board of review or board panel shall constitute a quorum and no action of the board or board panel shall be valid unless it has the concurrence of at least two a majority of its members. A vacancy on the board shall not
impair the right of a quorum to exercise all the rights and perform all the duties of the board.

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

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

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

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

(k) In any proceeding or hearing conducted under this section, a party
to the proceeding or hearing may appear before a referee or the employment security board of review or board panel either personally or by means of a designated representative to present evidence and to state the position of the party. Hearings may be conducted in person, by telephone or other means of electronic communication. The hearing shall be conducted by telephone or other means of electronic communication if none of the parties requests an in-person hearing. If only one party requests an in-person hearing, the referee or board or board panel shall have the discretion to deny the request in the absence of good cause shown for the request by the requesting party. If a request for an in-person hearing is granted, the referee or board or board panel shall have the discretion to require all parties to appear in person or allow the party not requesting an in-person hearing to appear by telephone or other means of electronic communication. The notice of hearing shall include notice to the parties of their right to request an in-person hearing and instructions on how to make the request.

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

(b) Rates and base of contributions. (1) Except as provided in paragraph (2) of this subsection, each contributing employer shall pay contributions on wages paid by the contributing employer during each calendar year with respect to employment as provided in K.S.A. 44-710a, and amendments thereto. Except that, notwithstanding the federal law requiring the secretary of labor to annually recalculate the contribution rate, for calendar years 2010, 2011, 2012, 2013 and 2014, the secretary shall charge each contributing employer in rate groups 1 through 32 the contribution rate in the 2010 original tax rate computation table, with contributing employers in rate groups 33 through 51 being capped at a 5.4% contribution rate. For calendar year 2021, unemployment tax rates for eligible employers shall be limited to the standard rate schedule in K.S.A. 44-710a, and amendments thereto. Therefore, no additional solvency adjustment shall be applied.
(2) (A) If the congress of the United States either amends or repeals the Wagner-Peyser act, the federal unemployment tax act, the federal social security act, or subtitle C of chapter 23 of the federal internal revenue code of 1986, or any act or acts supplemental to or in lieu thereof, or any part or parts of any such law, or if any such law, or any part or parts thereof, are held invalid with the effect that appropriations of funds by congress and grants thereof to the state of Kansas for the payment of costs of administration of the employment security law are no longer available for such purposes; or (B) if employers in Kansas subject to the payment of tax under the federal unemployment tax act are granted full credit against such tax for contributions or taxes paid to the secretary of labor, then, and in either such case, beginning with the year that the unavailability of federal appropriations and grants for such purpose occurs or that such change in liability for payment of such federal tax occurs and for each year thereafter, the rate of contributions of each contributing employer shall be equal to the total of 0.5% and the rate of contributions as determined for such contributing employer under K.S.A. 44-710a, and amendments thereto. The amount of contributions that each contributing employer becomes liable to pay under this paragraph (2) over the amount of contributions that such contributing employer would be otherwise liable to pay shall be credited to the employment security administration fund to be disbursed and paid out under the same conditions and for the same purposes as other moneys are authorized to be paid from the employment security administration fund, except that, if the secretary determines that as of the first day of January of any year there is an excess in the employment security administration fund over the amount required to be disbursed during such year, an amount equal to such excess as determined by the secretary shall be transferred to the employment security fund.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) For purposes of this paragraph:

(i) "Erroneous payment" means a payment that but for the failure by
the employer or the employer's agent with respect to the claim for
unemployment compensation, would not have been made; and

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

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

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

(4) The examiner shall notify any base period employer whose
account will be charged with benefits paid following the filing of a valid
new claim and a determination by the examiner based on all information
relating to the claim contained in the records of the division of
employment security. Such notice shall become final and benefits charged
to the base period employer's account in accordance with the claim unless
within 10 calendar days from the date the notice was sent, the base period
employer requests in writing that the examiner reconsider the
determination and furnishes any required information in accordance with
the secretary's rules and regulations. In a similar manner, a notice of an
additional claim followed by the first payment of benefits with respect to
the benefit year, filed by an individual during a benefit year after a period
in such year during which such individual was employed, shall be given to
any base period employer of the individual who has requested such a
notice within 10 calendar days from the date the notice of the valid new
claim was sent to such base period employer. For purposes of this
subsection (c)(3), if the required information is not submitted or
postmarked within a response time limit of 10 days after the base period
employer notice was sent, the base period employer shall be deemed to
have waived its standing as a party to the proceedings arising from the
claim and shall be barred from protesting any subsequent decisions about
the claim by the secretary, a referee, the board of review or any court,
except that the base period employer's response time limit may be waived
or extended by the examiner or upon appeal, if timely response was
impossible due to excusable neglect. The examiner shall notify the
employer of the reconsidered determination, which shall be subject to
appeal or further reconsideration, in accordance with the provisions of
K.S.A. 44-709, and amendments thereto.

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

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

(e) Election to become reimbursing employer; payment in lieu of contributions. (1) Any governmental entity, Indian tribes or tribal units, (subdivisions, subsidiaries or business enterprises wholly owned by such Indian tribes), for which services are performed as described in K.S.A. 44-703(i)(3)(E), and amendments thereto, or any nonprofit organization or group of nonprofit organizations described in section 501(c)(3) of the federal internal revenue code of 1986 that is exempt from income tax under section 501(a) of such code, that becomes subject to the employment security law may elect to become a reimbursing employer under this subsection (e)(1) and agree to pay the secretary for the employment security fund an amount equal to the amount of regular benefits and ½ of the extended benefits paid that are attributable to service in the employ of such reimbursing employer, except that each reimbursing governmental employer, Indian tribes or tribal units shall pay an amount equal to the amount of regular benefits and extended benefits paid for weeks of unemployment beginning after December 31, 1978, for governmental employers and December 21, 2000, for Indian tribes or tribal units to individuals for weeks of unemployment that begin during the effective period of such election.

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

(B) Any employer that makes an election to become a reimbursing employer in accordance with subparagraph (A) will continue to be liable
for payments in lieu of contributions until such employer files with the
secretary a written notice terminating its election not later than 30 days
prior to the beginning of the calendar year for which such termination shall
first be effective.

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

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

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

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

(A) At the end of each calendar quarter, or at the end of any other
period as determined by the secretary, the secretary shall bill each
reimbursing employer, except the state of Kansas: (i) An amount to be paid
that is equal to the full amount of regular benefits plus ½ of the amount of
extended benefits paid during such quarter or other prescribed period that
is attributable to service in the employ of such reimbursing employer; and
(ii) for weeks of unemployment beginning after December 31, 1978, each
reimbursing governmental employer and December 21, 2000, for Indian
tribes or tribal units shall be certified an amount to be paid that is equal to
the full amount of regular benefits and extended benefits paid during such
quarter or other prescribed period that is attributable to service in the
employ of such reimbursing governmental employer.
(B) Payment of any bill rendered under subparagraph (A) shall be made not later than 30 days after such bill was mailed to the last known address of the reimbursing employer, or otherwise was delivered to such reimbursing employer, unless there has been an application for review and redetermination in accordance with subparagraph (D).

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

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

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

(F) Failure of the Indian tribe or any tribal unit thereof to make required payments, including assessments of interest and penalties, after all collection activities deemed necessary by the secretary have been exhausted, will cause services performed by such tribe to not be treated as employment for purposes of K.S.A. 44-703(i)(3)(E), and amendments thereto. If an Indian tribe fails to make payments required under this
section, including assessments of interest and penalties, within 90 days of a final notice of delinquency, the secretary shall immediately notify the United States internal revenue service and the United States department of labor. The secretary may determine that any Indian tribe that loses coverage pursuant to this paragraph may have services performed on behalf of such tribe again deemed "employment" if all contributions, payments in lieu of contributions, penalties and interest have been paid.

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

(H) The state of Kansas shall make reimbursement payments quarterly at a fiscal year rate that shall be based upon: (i) The available balance in the state's reimbursing account as of December 31 of each calendar year; (ii) the historical unemployment experience of all covered state agencies during prior years; (iii) the estimate of total covered wages to be paid during the ensuing calendar year; (iv) the applicable fiscal year rate of the claims processing and auditing fee under K.S.A. 75-3798, and amendments thereto; and (v) actuarial and other information furnished to the secretary by the secretary of administration. In accordance with K.S.A. 75-3798, and amendments thereto, the claims processing and auditing fees
charged to state agencies shall be deducted from the amounts collected for
the reimbursement payments under this paragraph (H) prior to making the
quarterly reimbursement payments for the state of Kansas. The fiscal year
rate shall be expressed as a percentage of covered total wages and shall be
the same for all covered state agencies. The fiscal year rate for each fiscal
year will be certified in writing by the secretary to the secretary of
administration on July 15 of each year and such certified rate shall become
effective on the July 1 immediately following the date of certification. A
detailed listing of benefit charges applicable to the state's reimbursing
account shall be furnished quarterly by the secretary to the secretary of
administration and the total amount of charges deducted from previous
reimbursing payments made by the state. On January 1 of each year, if it is
determined that benefit charges exceed the amount of prior reimbursing
payments, an upward adjustment shall be made therefor in the fiscal year
rate to be certified on the ensuing July 15. If total payments exceed benefit
charges, all or part of the excess may be refunded, at the discretion of the
secretary, from the fund or retained in the fund as part of the payments that
may be required for the next fiscal year.

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

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

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

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

Sec. 13. K.S.A. 2020 Supp. 44-710a is hereby amended to read as
follows: 44-710a. (a) Classification of employers by the secretary. The
term "employer" as used in this section refers to contributing employers.
The secretary shall classify employers in accordance with their actual
experience in the payment of contributions on their own behalf and with
respect to benefits charged against their accounts with a view of fixing such contribution rates as will reflect such experience. If, as of the date such classification of employers is made, the secretary finds that any employing unit has failed to file any report required in connection therewith, or has filed a report which the secretary finds incorrect or insufficient, the secretary shall make an estimate of the information required from such employing unit on the basis of the best evidence reasonably available to the secretary at the time, and notify the employing unit thereof by mail addressed to its last known address. Unless such employing unit shall file the report or a corrected or sufficient report as the case may be, within 15 days after the mailing of such notice, the secretary shall compute such employing unit's rate of contributions on the basis of such estimates, and the rate as so determined shall be subject to increase but not to reduction on the basis of subsequently ascertained information. The secretary shall determine the contribution rate of each employer in accordance with the requirements of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SCHEDULE I—Eligible Employers

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<th>Taxable payroll range</th>
<th>Experience factor</th>
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<tr>
<td>3</td>
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<td>20</td>
<td>37.24 but less than 39.20</td>
<td>.76</td>
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<td>39.20 but less than 41.16</td>
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<td>49</td>
<td>94.08 but less than 96.04</td>
<td>1.92</td>
</tr>
<tr>
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<td>1.96</td>
</tr>
<tr>
<td>51</td>
<td>98.00 and over</td>
<td>2.00</td>
</tr>
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</table>

(E) For rate year 2015 and prior rate years, negative account balance...
employers shall, in addition to paying the rate provided for in subsection (a)(2)(B) of this section, pay a surcharge based on the size of the employer's negative reserve ratio, the calculation which is provided for in subsection (a)(2) of this section. The amount of the surcharge shall be determined from column B2 of schedule II of this section for calendar years 2012, 2013, 2014 and from column B4 of schedule II of this section for each calendar year after 2014. Each negative account balance employer who does not satisfy the requirements to have an average annual payroll, as defined by K.S.A. 44-703(a)(2), and amendments thereto, shall be assigned a surcharge of equal to the maximum negative ratio surcharge from column B2 of schedule II of this section for calendar years 2012, 2013 and 2014. Funds from the surcharge paid according to this subsection (a)(2)(E), and amendments thereto, shall be used to pay principal and interest due on funds received from the federal unemployment account under title XII of the social security act, (42 U.S.C. §§ 1321 to 1324), in the following manner:

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

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

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

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

(v) if the amounts collected under this subsection are in excess of the amounts needed to pay interest due, the amounts in excess shall remain in the employment security interest assessment fund to be used to pay interest in future years. Whenever the secretary certifies all interest payments have been paid pursuant to this section, any excess funds remaining in the employment security interest assessment fund shall be transferred to the employment security interest assessment fund for the purpose of paying any remaining principal amount due for advances described in this section. In the event the amount transferred from the employment security interest assessment fund exceeds such remaining amount of principal due, the balance shall be used for the purposes of the employment security trust fund:

SCHEDULE II—Surcharge on Negative Accounts

<table>
<thead>
<tr>
<th>Column A</th>
<th>Column B1</th>
<th>Column B2</th>
<th>Column B3</th>
<th>Column B4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reserve percent of</td>
<td>Surcharge as a percent of</td>
<td>taxable wages</td>
<td>taxable wages</td>
<td>taxable wages</td>
</tr>
<tr>
<td>Ratiotaxable wages</td>
<td>taxable wages</td>
<td>taxable wages</td>
<td>taxable wages</td>
<td></td>
</tr>
<tr>
<td>Less than 2.0%</td>
<td>0.20%</td>
<td>0.30%</td>
<td>0.40%</td>
<td>0.50%</td>
</tr>
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<td>1.40</td>
<td>1.50</td>
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<td>1.60</td>
<td>1.70</td>
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<td>2.50</td>
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<td>2.90</td>
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<td>2.90</td>
<td>3.00</td>
<td>3.10</td>
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<td>3.20</td>
<td>3.30</td>
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<td>3.30</td>
<td>3.40</td>
<td>3.50</td>
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<td>3.50</td>
<td>3.60</td>
<td>3.70</td>
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<td>4.10</td>
<td>4.20</td>
<td>4.30</td>
</tr>
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</table>

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

(B) If, as of the computation date, an eligible, positive balance employer’s reserve ratio is significantly affected due to an increase in the employer’s taxable payroll of at least 100% and such increase is attributable to a growth in employment, and not to a change in the taxable wage base from the previous year, the secretary shall assign a reduced rate
of contributions for a period of three years.

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

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

(4) **Planned yield.** (A) For rate year 2015 and prior rate years, the average required yield shall be determined from schedule III of this section, and the planned yield on total wages in column B of schedule III shall be determined by the reserve fund ratio in column A of schedule III.

The reserve fund ratio shall be determined by dividing total assets in the employment security fund provided for in K.S.A. 44-712(a), and amendments thereto, excluding all moneys credited to the account of this state pursuant to section 903 of the federal social security act, as amended, which have been appropriated by the state legislature, whether or not withdrawn from the trust fund, and excluding contributions not yet paid on July 31 by total payrolls for contributing employers for the preceding fiscal year which ended June 30.

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

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<thead>
<tr>
<th>Column A</th>
<th>Column B</th>
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<tr>
<td>4.375 but less than 4.400</td>
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<tr>
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</table>
(C) Adjustment to taxable wages. For rate year 2015 and prior rate years, the planned yield as a percent of total wages, as determined in this subsection (a)(4), shall be adjusted to taxable wages by multiplying by the ratio of total wages to taxable wages for all contributing employers for the preceding fiscal year ending June 30, except, with regard to a year in which the taxable wage base changes. The taxable wages used in the calculation for such a year and the following year shall be an estimate of what the taxable wages would have been if the new taxable wage base had been in effect during all of the preceding fiscal year ending June 30.

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

Fund Control Table A
For Rate Years 2016-2021

<table>
<thead>
<tr>
<th>Lower AHCM Threshold</th>
<th>Upper AHCM Threshold</th>
<th>Solvency Adjustment to Standard Rate per</th>
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<td>0.800 but less than 0.900</td>
<td>1.03</td>
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<tr>
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<td>0.700 but less than 0.800</td>
<td>1.04</td>
</tr>
<tr>
<td>0.500 but less than 0.600</td>
<td>0.600 but less than 0.700</td>
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<td>0.400 but less than 0.500</td>
<td>1.07</td>
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<td>0.300 but less than 0.400</td>
<td>1.08</td>
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<tr>
<td>0.100 but less than 0.200</td>
<td>0.200 but less than 0.300</td>
<td>1.09</td>
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<tr>
<td>Less than 0.100%</td>
<td>0.100 but less than 0.200</td>
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</table>
### Fund Control Table B

For Rate Year 2022 and Ensuing Calendar Years

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<tr>
<th>KS SUTA</th>
<th>Lower</th>
<th>Upper</th>
<th>Solvency/Credit</th>
<th>Solvency/Credit</th>
<th>Solvency/Credit</th>
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<td>Threshold</td>
<td>AHC M</td>
<td>Adjustment to Maximum</td>
<td>Standard Rate</td>
<td>Standard, Earned</td>
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<tr>
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</table>

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

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

### STANDARD RATE SCHEDULE S -

### STANDARD RATE SCHEDULE 7

<table>
<thead>
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(iii) For all rate years prior to 2016, except with regard to rates for negative account balance employers, employer contribution rates to be effective for the ensuing calendar year shall be computed by adjusting proportionately the experience factors from schedule I of this section to the
required yield on taxable wages. For the purposes of this subsection (a)(4),
all rates computed shall be rounded to the nearest .01% and for calendar
year 1983 and ensuing calendar years, the maximum effective contribution
rate shall not exceed 5.4%.
(iv) For rate years 2007 through 2015, employers who are current in
filing quarterly wage reports and in payment of all contributions due and
owing, shall be issued a contribution rate based upon the following
reduction: For rate groups 1 through 5, the rates would be reduced to
0.00%; for rate groups 6 through 28, the rates would be reduced by 50%;
for rate groups 29 through 51, the rates would be reduced by 40%.
(v) For rate year 2014 and rate years thereafter, an eligible employer
other than a negative account balance employer, who has filed all reports
due and paid all contributions due and owing on or before January 31 of
the applicable year is entitled to a rate discount of 15% except as provided
in this subsection. For rate year 2015 and rate years thereafter, an eligible
employer other than a negative account balance employer, who has filed
all reports due and paid all contributions due and owing on or before
January 31 of the applicable year is entitled to a rate discount of 25% 
except as provided in this subsection. This discount shall not be in effect if
other reduced rates pursuant to subsections (a)(4)(D)(i) through (iv) are in
effect. This discount shall not be available for a rate year if the average
high cost multiple, as defined in subsection (a)(4)(D)(i), of the
employment security trust fund balance falls below 1.0 as of the
computation date of that year's rates, and this discount shall thereafter
cease to be in effect for all subsequent rate years.

Rate SOLVENCY RATE SCHEDULES (1-6)

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20.39 (b) Successor classification. (1) (A) For the purposes of this
subsection—(b), whenever an employing unit, whether or not it is an
"employing unit" within the meaning of of K.S.A. 44-703(g), and
amendments thereto, becomes an employer pursuant to K.S.A. 44-703(h)
(4), and amendments thereto, or is an employer at the time of acquisition
and meets the definition of a "successor employer" as defined by K.S.A.
44-703(dd), and amendments thereto, and thereafter transfers its trade or
business, or any portion thereof, to another employer and, at the time of
the transfer, there is substantially common ownership, management or
control of the two employers, then the unemployment experience
attributable to the transferred trade or business shall be transferred to the
employer to whom such business is so transferred. These experience
factors consist of all contributions paid, benefit experience and annual
payrolls of the predecessor employer. The transfer of some or all of an
employer's workforce to another employer shall be considered a transfer of
trade or business when, as the result of such transfer, the transferring
employer no longer performs trade or business with respect to the
transferred workforce, and such trade or business is performed by the
employer to whom the workforce is transferred.
(B) If, following a transfer of experience under subparagraph (A), the
secretary determines that a substantial purpose of the transfer or business
was to obtain a reduced liability for contributions, then the experience
rating accounts of the employers involved shall be combined into a single
account and a single rate assigned to such account.
(2) A successor employer as defined by K.S.A. 44-703(h)(4) or (dd), and amendments thereto, may receive the experience rating factors of the predecessor employer if an application is made to the secretary or the secretary's designee in writing within 120 days of the date of the transfer.

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

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

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

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

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

(5) Whenever an employing unit is not an employer at the time it acquires the trade or business of an employer, the unemployment experience factors of the acquired business shall not be transferred to such employing unit if the secretary finds that such employing unit acquired the business solely or primarily for the purpose of obtaining a lower rate of contributions. Instead, such employing unit shall be assigned the
applicable industry rate for a "new employer" as described in subsection (a)(1). In determining whether the business was acquired solely or primarily for the purpose of obtaining a lower rate of contributions, the secretary shall use objective factors which may include the cost of acquiring the business, whether the employer continued the business enterprise of the acquired business, how long such business enterprise was continued, or whether a substantial number of new employees were hired for performance of duties unrelated to the business activity conducted prior to acquisition.

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

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

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

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

(e) There is hereby established in the state treasury, separate and apart
from all public moneys or funds of this state, an employment security-interest assessment fund, which shall be administered by the secretary as provided in this act. Moneys in the employment security fund established by K.S.A. 44-712, and amendments thereto, and employment security-interest assessment fund established by K.S.A. 44-710, and amendments thereto, shall not be invested in the pooled money investment portfolio established by K.S.A. 75-4234, and amendments thereto.

Notwithstanding the provisions of K.S.A. 44-712(a), K.S.A. 44-716, K.S.A. 44-717 and K.S.A. 75-4234, and amendments thereto, or any like provision the secretary shall remit all moneys received from employers pursuant to the interest payment assessment established in subsection (a)(2)(E), to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the employment-security interest assessment fund. All moneys in this fund which are received from employers pursuant to the interest payment assessment established in subsection (a)(2)(E), shall be expended solely for the purposes and in the amounts found by the secretary necessary to pay any principal and interest due and owing the United States department of labor resulting from any advancements made to the Kansas employment security fund pursuant to the provisions of title XII of the social security act (42 U.S.C. §§ 1321 to 1324) except as may be otherwise provided under subsection (a)(2)(E). Notwithstanding any provision of this section, all moneys received and credited to this fund pursuant to subsection (a)(2)(E), shall remain part of the employment security-interest assessment fund and shall be used only in accordance with the conditions specified in subsection (a)(2)(E) On July 1, 2021, the director of accounts and reports shall transfer all moneys in the employment security interest assessment fund to the employment security trust fund. On July 1, 2021, all liabilities of the employment security interest assessment fund are hereby transferred to and imposed on the employment security trust fund, and the employment security interest assessment fund is hereby abolished.

(f) The secretary of labor shall annually prepare and submit a certification as to the solvency and adequacy of the amount credited to the state of Kansas' account in the federal employment security trust fund to the governor and the legislative coordinating council. The certification shall be submitted on or before December 1 of each calendar year and shall be for the 12-month period ending on June 30 of that calendar year. In arriving at the certification contributions paid on or before July 31 following the 12-month period ending date of June 30 shall be considered. Each certification shall be used to determine the need for any adjustment to schedule III in subsection (a)(4)(B) and to assist in preparing legislation to accomplish any such adjustment.
Sec. 14. K.S.A. 2020 Supp. 44-710b is hereby amended to read as follows: 44-710b. (a) By the secretary of labor. The secretary of labor shall promptly notify each contributing employer of its rate of contributions, each rated governmental employer of its benefit cost rate and each reimbursing employer of its benefit liability as determined for any calendar year pursuant to K.S.A. 44-710 and 44-710a, and amendments thereto, on or before November 30 of the calendar year immediately preceding the calendar year in which such rate takes effect. Such determination shall become conclusive and binding upon the employer unless, within 15 days after the mailing of notice thereof to the employer’s last known address or in the absence of mailing, within 15 days after the delivery of such notice, the employer files an application for review and redetermination, setting forth the reasons therefor. If the secretary of labor grants such review, the employer shall be promptly notified thereof and shall be granted an opportunity for a fair hearing, but no employer shall have standing, in any proceeding involving the employer's rate of contributions or benefit liability, to contest the chargeability to the employer's account of any benefits paid in accordance with a determination, redetermination or decision pursuant to subsection (c) of K.S.A. 44-710(c), and amendments thereto, except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for the employer and only in the event that the employer was not a party to such determination, redetermination or decision or to any other proceedings under this act in which the character of such services was determined. Any such hearing conducted pursuant to this section shall be heard in the county where the contributing employer maintains its principle place of business. The hearing officer shall render a decision concerning all matters at issue in the hearing within 90 days.

(b) (1) The secretary shall, without necessity of a request by or as an improper payment, as defined in K.S.A. 2020 Supp. 44-710b(e)(2), and amendments thereto, employer or a hearing, immediately and fully credit any contributing employer's, governmental rated employer's or reimbursing employer's account for any benefits paid upon a determination by the secretary that such benefits were paid to any person who received such benefits: (A) By fraud; or (B) in error where any conditions imposed by this act for the receipt of benefits were not fulfilled or where the recipient was not qualified to or disqualified from receiving such benefits.

(2) (A) Contributing employers, rated governmental employers and reimbursing employers shall be held harmless for and shall not be required to reimburse the state for any benefits paid that have been identified by the employer as fraudulent or as an improper payment, as
defined by subsection (e)(2), and reported to the secretary unless the
secretary determines that such benefits were received properly and not: (i)
By fraud; or (ii) in error where any conditions imposed by this act for the
receipt of benefits were not fulfilled or where the recipient was not
qualified to or disqualified from receiving such benefits. Any such
determination by the secretary shall be subject to appeal as provided by
the employment security law.

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

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

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

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

(e)(d) Periodic notification of benefits charged. The secretary of labor
may provide by rules and regulations for periodic notification to
employers of benefits paid and chargeable to their accounts or of the status
of such accounts, and any such notification, in the absence of an
application for redetermination filed in such manner and within such
period as the secretary of labor may prescribe, shall become conclusive
and binding upon the employer for all purposes. Such redeterminations,
made after notice and opportunity for hearing, and the secretary's findings
of facts in connection therewith may be introduced in any subsequent
administrative or judicial proceedings involving the determination of the
rate of contributions of any employer for any calendar year and shall be entitled to the same finality as is provided in this subsection with respect to the findings of fact made by the secretary of labor in proceedings to redetermine the contribution rate of an employer. The review or any other proceedings relating thereto as provided for in this section may be heard by any duly authorized employee of the secretary of labor and such action shall have the same effect as if heard by the secretary.

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

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

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

(4) For purposes of this subsection and subsection (f), "improper payment amounts" or "improper payments" means any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative or other legally applicable
requirements and includes any payment to an ineligible recipient.

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

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

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

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

(B) If the governor determines that it is prudent for a transfer made pursuant to paragraph (3)(A) to be made to a different fund in the state treasury, the governor, with the approval of the state finance council acting on this matter, which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in K.S.A. 75-3711c(c), and amendments thereto, may authorize the transfer to such other fund.
(g) Any federal unemployment insurance benefit program established as a result of COVID-19 or any pandemic shall not be continued after the ending date of the federal program through the use of Kansas state unemployment insurance fund contributions made by Kansas employers.

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

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

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

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

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

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

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

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

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

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

(10) "Shared work-unemployment compensation program" means a program designed to reduce unemployment and stabilize the work force by allowing certain employees to collect unemployment compensation benefits if the employees share the work remaining after a reduction in the total number of hours of work and a corresponding reduction in wages. "Short-term compensation program" means a shared work plan program designed to provide an alternative to layoffs for employers experiencing a reduction in available work. A "short-term compensation program" preserves employees' jobs and an employer's trained workforce during times of lowered economic activity by allowing an employer to
reduce hours of work for employees rather than laying off some employees while others continue to work full time. Under a "short-term compensation program," employees experiencing a reduction in hours are allowed to collect a pro-rata share of their unemployment compensation benefits to replace a portion of the employee's lost wages.

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

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

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

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

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

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

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

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

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

(1) The shared work plan applies to and identifies a specific affected unit;
(2) the employees in the affected unit are identified by name and social security number;

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

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

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

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

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

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

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

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

(9) eligible employees may participate, as appropriate, in training, including without limitation, employer-sponsored training or worker
training funded under the workforce investment act of 1998, to enhance
job skills if such program has been approved by the state of Kansas;
(10) the employer includes a plan for giving advance notice, where
feasible, to an employee whose workweek is to be reduced together with
an estimate of the number of layoffs that would have occurred absent the
ability to participate in shared work compensation and such other
information as the secretary of labor determines is appropriate; and
(11) the terms of the employer’s written plan and implementation are
consistent with employer obligations under applicable federal and Kansas
laws.
(f) If any of the employees who participate in a shared work plan
under this section are covered by a collective bargaining agreement, the
shared work plan must be approved in writing by the collective bargaining
agent.
(g) A shared work plan may not be implemented to subsidize
seasonal employers during the off-season.
(h) The secretary shall approve or deny a shared work plan no later
than the 30th day after the day the shared work plan is received by the
secretary. The secretary shall approve or deny a shared work plan in
writing. If the secretary denies a shared work plan, the secretary shall
notify the employer of the reasons for the denial.
(i) A shared work plan is effective on the date it is approved by the
secretary, except for good cause a shared work plan may be effective at
any time within a period of 14 days prior to the date such plan is approved
by the secretary. The shared work plan expires on the last day of the 12th
full calendar month after the effective date of the shared work plan.
(j) An employer may modify a shared work plan created under this
section to meet changed conditions if the modification conforms to the
basic provisions of the shared work plan as approved by the secretary. The
employer must report the changes made to the shared work plan in writing
to the secretary before implementing the changes. If the original shared
work plan is substantially modified, the secretary shall reevaluate the
shared work plan and may approve the modified shared work plan if it
meets the requirements for approval under subsection (d). The approval of
a modified shared work plan does not affect the expiration date originally
set for that shared work plan. If substantial modifications cause the shared
work plan to fail to meet the requirements for approval, the secretary shall
deny approval to the modifications as provided by subsection (g).
(k) Notwithstanding any other provisions of the employment
security law, an individual is unemployed and is eligible for shared work
benefits in any week in which the individual, as an employee in an affected
unit, works for less than the individual's normal weekly hours of work in
accordance with an approved shared work plan in effect for that week. The
secretary may not deny shared work benefits for any week to an otherwise eligible individual by reason of the application of any provision of the employment security law that relates to availability for work, active search for work or refusal to apply for or accept work with an employer other than the participating employer.

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

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

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

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

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

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

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

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

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

(4)(p) The secretary may terminate a shared work plan for good cause
if the secretary determines that the shared work plan is not being executed according to the terms and intent of the shared work unemployment compensation program.

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

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

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

Sec. 16. K.S.A. 44-758 is hereby amended to read as follows: 44-758.
(a) Any employer or any individual, organization, partnership, corporation or other legal entity which is a lessor employing unit, as defined by subsection (ff) of K.S.A. 44-703(ff), and amendments thereto, shall be liable for contributions on wages paid by the lessor employing unit to individuals performing services for client lessees. For the purposes of the employment security law, no client lessee shall lease an individual proprietor, partner or corporate officer, who is a shareholder or a member of the board of directors of the corporation, from any lessor employing unit. Any client lessee shall be jointly and severally liable for any unpaid contributions, interest and penalties due under this law from any lessor employing unit attributable to wages for services performed for the client lessee by employees leased to the client lessee. The lessor employing unit shall keep separate records and submit separate quarterly contributions and wage reports for each client lessee.

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

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

(d) This section shall be construed as part of the employment security law.
Sec. 17. K.S.A. 44-758 and K.S.A. 2020 Supp. 44-703, 44-704, 44-705, 44-709, 44-710, 44-710a, 44-710b and 44-757 are hereby repealed.

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