

Senate Substitute for

Substitute for HOUSE BILL No. 2196

By Committee on Commerce

3-29

1 AN ACT concerning employment security; creating the unemployment
2 compensation modernization and improvement council; providing for
3 an audit to be conducted by the council; providing for development of a
4 new unemployment insurance information technology system; claimant
5 tax information; website publication of trust fund data; maximum
6 benefit period; charging of employer accounts for benefits paid;
7 employment security board of review and emergency expansion
8 thereof; employer contribution rate determination and schedules;
9 crediting employer accounts for fraudulent or erroneous payments;
10 services performed by petroleum landmen; lessor employment unit
11 employee leasing restrictions; disclosure of information; shared work
12 compensation program; establishing the my reemployment plan
13 providing job search and job matching assistance to claimants and
14 employers; providing for workforce training program availability for
15 claimants; providing for the transfer of certain federal coronavirus
16 relief funds received by the state to the employment security fund;
17 changing the benefit disqualification period for fraud; ***{making and***
18 ***concerning appropriations for the fiscal years ending June 30, 2021,***
19 ***and June 30, 2022; authorizing certain transfers and imposing***
20 ***certain limitations; establishing a new crime of unemployment***
21 ***insurance fraud with an enhanced penalty;*** amending K.S.A. 44-758
22 and K.S.A. 2020 Supp. 44-703, 44-704, 44-705, 44-706, 44-709, 44-
23 710, 44-710a, 44-710b, 44-714, ***44-719*** and 44-757 and repealing the
24 existing sections.

25

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

27 New Section 1. (a) (1) There is hereby created the unemployment
28 compensation modernization and improvement council. The council shall
29 consist of 13 members appointed as follows:

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

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

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

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

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

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

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

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

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

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

40 (d) Each member of the council shall be entitled to receive
41 compensation for the member's services, together with the member's travel
42 and other necessary expenses actually incurred in the performance of the
43 member's official duties, in accordance with rules and regulations adopted

1 by the council. Members' compensation and expenses shall be paid from
2 the employment security administration fund or any account of the state
3 general fund of the department of labor, as designated by the secretary.

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

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

22 (1) The technological infrastructure used to file and process claims
23 and pay benefits and the experience of individuals and employers
24 participating in the process;

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

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

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

41 (g) (1) The council shall conduct an audit that shall examine the
42 effects on the department of labor and the unemployment insurance system
43 of fraudulent claims and improper payments during the period of March

1 15, 2020, through March 31, 2022, and the response by the department of
2 labor to such fraudulent claims and improper payments during that period.
3 The council shall select an independent firm to conduct the audit. The
4 auditor shall have access to all confidential documents. The scope of the
5 audit shall include, but not be limited to, the amounts and nature of
6 improper payments and fraudulent claims, fraud processes and methods
7 and the possibility of recovery of any improper payments. The audit shall
8 also include, but not be limited to, an evaluation that provides likelihood
9 of a data breach being a contributing factor to any fraudulent payments,
10 improper network architecture allowing a potential breach to have
11 occurred and a timeline of relevant events. The independent firm shall
12 make a preliminary report to the council by May 1, 2022, and a final report
13 by September 1, 2022, that shall be made publicly available by the council.
14 The preliminary report should include, but not be limited to, an evaluation
15 of systems with access to the payment and processing of claims, forensic
16 endpoint images related to the claims and the external perimeter housing
17 the claims systems, as well as an evaluation of the department of labor's
18 response to claims. The council's report, and any subsequent report
19 provided, shall also include information on the progress regarding the
20 secretary's implementation of all program integrity elements and guidance
21 issued by the United States department of labor and the national
22 association of state workforce agencies as described in section 2(e), and
23 amendments thereto. Any confidential information shall be redacted and
24 shall not be made public. The audit shall be paid for by the state, subject to
25 appropriations therefor.

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

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

35 (i) The speaker of the house of representatives and the president of
36 the senate shall jointly appoint an executive secretary of the council from
37 the Kansas legislative research department, and the executive secretary
38 shall attend the meetings of the council. The executive secretary's duties
39 shall include:

40 (1) Maintaining council agendas and assisting in planning meetings
41 and conferences;

42 (2) recording and making minutes available to the public;

43 (3) handling confidential documents and ensuring they remain secure;

1 (4) maintaining electronic and paper records and ensuring such
2 information is organized and easily accessible; and

3 (5) conducting research and preparing presentations or reports as
4 assigned by the chairperson or the secretary of labor.

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

12 (2) Not later than 30 days after the council's first meeting, the council
13 shall issue an initial report that, at a minimum, describes the state of the
14 process by which an individual files a claim for and receives benefits
15 under the employment security law at the time the report is issued and
16 planned improvements to the process. The council may address other
17 matters within the council's purview in the report.

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

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

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

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

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

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

43 (C) adopt rules and regulations creating a uniform process through

1 which an applicant for or a recipient of benefits under the employment
2 security law or an employer may submit a complaint related to the service
3 the applicant, recipient or employer received.

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

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

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

10 (C) employees provided by private entities.

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

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

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

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

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

42 (b) The legislature finds that, as a result of the vulnerabilities exposed
43 in the legacy unemployment insurance system by the COVID-19 pandemic

1 unemployment insurance crisis, a new system shall be fully designed,
2 implemented and administered by the department of labor on a date to be
3 determined by the ~~unemployment compensation modernization and~~
4 ~~improvement council established by section 1, and amendments thereto~~
5 *{legislative coordinating council}*. The ~~council~~ *{legislative coordinating*
6 *council}* may extend the deadline to a date certain and may further extend
7 the deadline to another date certain at any time.

8 (c) The information technology system, technology and platform
9 shall include, but not be limited to, any components as specified and
10 defined by the unemployment compensation modernization and
11 improvement council established by section 1, and amendments thereto, in
12 consultation with the secretary.

13 (d) The new system shall include, but not be limited to, any features
14 and benefits as specified and defined by the unemployment compensation
15 modernization and improvement council established by section 1, and
16 amendments thereto, in consultation with the secretary.

17 (e) The secretary shall implement and utilize all program integrity
18 elements, as specified and defined by the unemployment compensation
19 modernization and improvement council established by section 1, and
20 amendments thereto, in consultation with the secretary, including, but not
21 limited to:

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

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

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

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

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

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

39 (7) use of data mining and data analytics to detect and prevent fraud
40 when a claim is filed, and on an ongoing basis throughout the lifecycle of a
41 claim, by using current and future functionalities to include suspicious
42 actor repository, suspicious email domains, foreign internet protocol
43 addresses, multi-state cross-match, identity verification, fraud alert

1 systems and other assets provided by the unemployment insurance
2 integrity center.

3 (f) If the unemployment compensation modernization and
4 improvement council becomes inactive or is dissolved and the new
5 information technology system modernization project has been completed,
6 the secretary shall implement and utilize all new program integrity
7 elements and guidance issued by the United States department of labor and
8 the national association of state workforce agencies, including the integrity
9 data hub, within 60 days of the issuance of any such guidance.

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

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

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

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

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

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

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

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

43 (1) The secretary shall post and maintain certified computations and

1 data for each of the most recent 20 fiscal years within 120 days of the
2 effective date of this act; and

3 (2) for the fiscal year beginning on July 1, 2021, and each fiscal year
4 thereafter, the secretary shall certify and post the trust fund computations
5 and data for the fiscal year to the website on or before December 1
6 following the end of such fiscal year.

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

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

10 (A) The rate group;

11 (B) the reserve ratio lower limit;

12 (C) the number of accounts;

13 (D) the taxable wages by fiscal year;

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

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

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

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

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

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

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

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

28 New Sec. 5. (a) (1) The secretary of labor and the secretary of
29 commerce shall jointly establish and implement the my reemployment
30 plan as provided in this section. For purposes of this section, "my
31 reemployment plan" means a program jointly established and implemented
32 by the Kansas department of labor and the Kansas department of
33 commerce that provides enhanced reemployment services, including
34 workforce services provided by the department of commerce, to Kansans
35 receiving unemployment insurance benefits. The program shall be
36 available to all claimants except claimants in the shared work program or
37 trade readjustment assistance program or claimants on temporary layoff
38 with a return-to-work date.

39 (2) The secretary of labor shall provide the secretary of commerce
40 with the names and contact information of claimants that have claimed
41 four continuous weeks of benefits. The secretary of commerce shall
42 request a resume or work history, a skills list and a job search plan from
43 the claimants and shall offer and provide, when requested, assistance to the

1 claimants in developing the documents or plan through collaboration by
2 the secretary with the Kansas works workforce system.

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

8 (4) The secretary of commerce shall match open job positions with
9 claimants based on skills, work history and job location that is a
10 reasonable commute from the claimant's residence and communicate the
11 match information to the claimant and to the employer. The secretary of
12 labor and the secretary of commerce shall consider whether the claimant or
13 a Kansas employer would benefit from the claimant's participation in a
14 work skills training or retraining program as provided by subsection (b)
15 and, if so, provide such information to the employer, if applicable, and the
16 claimant. Claimants who fail to respond within two weeks after contact by
17 Kansasworks or the department of commerce shall be reported by the
18 secretary of commerce to the secretary of labor.

19 (5) The secretary of commerce shall facilitate and oversee the
20 claimant and employer interview process. The secretary shall monitor the
21 result of job matches, including information regarding any claimant who
22 did not attend an interview or did not accept a position that was a
23 reasonable match for the claimant's work history and skills and was within
24 a reasonable commute from the claimant's residence. The secretary shall
25 contact the claimant and report the claimant to the secretary of labor. The
26 secretary of labor shall consider whether the claimant has failed to meet
27 work search requirements and if the claimant should continue to receive
28 benefits.

29 (b) The secretary of commerce shall develop and implement a work
30 skills training or retraining program for claimants in collaboration with the
31 Kansasworks workforce system, the secretary of labor, employers and
32 other state or federal agencies or organizations. The secretary of commerce
33 shall seek to obtain or utilize any available federal funds for the program,
34 and to the extent feasible, may make current work skills training and
35 retraining programs available to claimants. The secretary of labor may
36 allow claimants to participate in such a program offered by the secretary of
37 commerce or by another state or federal agency in lieu of requiring the
38 claimant to meet job search requirements and the requirements of the my
39 reemployment plan until the number of allowed benefit weeks has expired.
40 A claimant shall participate in such a program for not less than 25 hours
41 per week. The secretary of commerce shall monitor claimants who are
42 participating in the program to ensure attendance and progress.

43 (c) Claimants who participate in the my reemployment plan or the

1 work skills training or retraining program shall meet attendance or
2 progress requirements established by the secretary of commerce to
3 continue eligibility for unemployment insurance benefits. Non - compliant
4 claimants shall be reported by the secretary of commerce to the secretary
5 of labor. The secretary of labor shall disqualify such claimants from further
6 benefits within five business days of receiving the report, unless or until
7 the claimant demonstrates compliance to the secretary of commerce, and
8 shall communicate the disqualification and the reason for the
9 disqualification to the claimant. The secretary of commerce shall report to
10 the secretary of labor when the claimant has reestablished compliance. The
11 secretary of labor may continue benefits or reinstate a claimant's eligibility
12 for benefits upon a showing of good cause by the claimant for the failure
13 to meet attendance or progress requirements or my reemployment plan
14 participation requirements.

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

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

24 New Sec. 6. Notwithstanding the provisions of chapter 1 of the 2020
25 Special Session Laws of Kansas, any other statute or any other provision
26 of this act, for the fiscal years ending June 30, 2021, and June 30, 2022, on
27 or before July 15, 2021, the director of the budget shall determine the
28 amount of moneys received by the state that are identified as moneys from
29 the federal government for aid to the state of Kansas for coronavirus relief
30 as appropriated in the following acts that are eligible to be used for
31 employment security, may be expended at the discretion of the state, in
32 compliance with the office of management and budget's uniform
33 administrative requirements, cost principles and audit requirements for
34 federal awards, and are unencumbered: (a) The federal CARES act, public
35 law 116-136, the federal coronavirus preparedness and response
36 supplemental appropriation act, 2020, public law 116-123, the federal
37 families first coronavirus response act, public law 116-127, and the federal
38 paycheck protection program and health care enhancement act, public law
39 116-139; (b) the federal consolidated appropriations act, 2021, public law
40 116-260; (c) the American rescue plan act of 2021, public law 117-2; and
41 (d) any other federal law that appropriates moneys to the state for aid for
42 coronavirus relief. Of such identified moneys, the director of the budget
43 shall determine in the aggregate an amount equal to ~~\$450,000,000~~

1 ~~}\$250,000,000}~~ available in special revenue funds. If such identified
2 moneys in the aggregate are less than ~~\$450,000,000~~ ~~}\$250,000,000}~~, the
3 director of the budget shall determine the maximum amount available. The
4 director of the budget shall certify the amount so determined from each
5 fund to the director of accounts and reports and, at the same time as such
6 certification is transmitted to the director of accounts and reports, shall
7 transmit a copy of such certification to the director of legislative research.
8 Upon receipt of each such certification, or as soon thereafter as moneys are
9 available, the director of accounts and reports shall immediately transfer
10 an aggregate amount equal to such certification and in the aggregate, an
11 amount equal to ~~\$450,000,000~~ ~~}\$250,000,000}~~ if available from such
12 funds to the employment security fund (296-00-7056-7200) of the
13 department of labor for the purpose of funding the employment security
14 fund. *{Of such identified moneys, the director of the budget shall further
15 determine in the aggregate an additional amount equal to \$250,000,000,
16 to be held in reserve in a fund or funds identified jointly by the director
17 of the budget and the director of accounts and reports. If such identified
18 moneys in the aggregate are less than \$250,000,000, the director of the
19 budget shall determine the maximum additional amount available. The
20 director of the budget shall certify the amount so determined from each
21 fund to the director of accounts and reports and, at the same time as
22 such certification is transmitted to the director of accounts and reports,
23 shall transmit a copy of such certification to the director of legislative
24 research and to the post auditor. In the event the secretary of labor
25 determines the employment security fund has become insolvent, then
26 immediately upon receipt of such certification, or as soon thereafter as
27 moneys are available, the director of accounts and reports shall transfer
28 an aggregate amount equal to such certification from such reserve fund
29 or funds to the employment security fund of the department of labor for
30 the purposes of funding the employment security fund. If the
31 employment security fund remains solvent, then upon completion of the
32 2020-2021 audit of the department of labor in accordance with K.S.A.
33 46-1106, and amendments thereto, the post auditor shall report
34 immediately in writing to the division of the budget the amount of funds
35 in benefits paid improperly as identified by such 2020-2021 audit. Upon
36 receipt of such report, the director of the budget shall certify the amount
37 identified by the post auditor and, at the same time as such certification
38 is transmitted to the director of accounts and reports, shall transmit a
39 copy of such certification to the director of legislative research and to
40 the post auditor. Upon receipt of such certification, or as soon thereafter
41 as moneys are available, the director of accounts and reports shall
42 transfer an aggregate amount equal to such certification from such
43 reserve fund or funds to the employment security fund of the department*

1 *of labor for the purposes of funding the employment security fund. Any*
2 *moneys remaining of those amounts being held in reserve for this*
3 *purpose shall be allocated to the state general fund in accordance with*
4 *appropriation acts.}*

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

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

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

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

20 (4) the actual and projected amount of employer contributions for the
21 12-month period beginning on July 1 of the previous calendar year and
22 ending on June 30 of the current calendar year and projected employer
23 contribution rates for the next succeeding calendar year;

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

26 (6) the projected balance of the employment security trust fund on
27 June 30 of the current calendar year and on January 1 of the next
28 succeeding calendar year.

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

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

40 (d) The provisions of this section shall expire on February 1, 2024.

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

43 Sec. 8. K.S.A. 2020 Supp. 44-703 is hereby amended to read as

1 follows: 44-703. As used in this act, unless the context clearly requires
2 otherwise:

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

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

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

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

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

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

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

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

43 (d) "Benefit year" with respect to any individual, means the period

1 beginning with the first day of the first week for which such individual
2 files a valid claim for benefits, and such benefit year shall continue for one
3 full year. In the case of a combined wage claim, the benefit year shall be
4 the benefit year of the paying state. Following the termination of a benefit
5 year, a subsequent benefit year shall commence on the first day of the first
6 week with respect to which an individual next files a claim for benefits.
7 When such filing occurs with respect to a week ~~which~~ *that* overlaps the
8 preceding benefit year, the subsequent benefit year shall commence on the
9 first day immediately following the expiration date of the preceding
10 benefit year. Any claim for benefits made in accordance with ~~subsection~~
11 ~~(a)~~ of K.S.A. 44-709(a), and amendments thereto, shall be deemed to be a
12 "valid claim" for the purposes of this subsection if the individual has been
13 paid wages for insured work as required under ~~subsection (e)~~ of K.S.A. 44-
14 705(e), and amendments thereto. Whenever a week of unemployment
15 overlaps two benefit years, such week shall, for the purpose of granting
16 waiting-period credit or benefit payment with respect thereto, be deemed
17 to be a week of unemployment within that benefit year in which the
18 greater part of such week occurs.

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

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

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

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

1 employing unit or by such agent or employee, provided the employing unit
2 had actual or constructive knowledge of the employment.

3 (h) "Employer" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (6) Any employing unit ~~which~~ *that* having become an employer
35 under this subsection (h) has not, under ~~subsection (b)~~ of K.S.A. 44-
36 711(b), and amendments thereto, ceased to be an employer subject to this
37 act.

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

41 (8) Any employing unit not an employer by reason of any other
42 paragraph of this subsection (h), for which within either the current or
43 preceding calendar year services in employment are or were performed

1 with respect to which such employing unit is liable for any federal tax
2 against which credit may be taken for contributions required to be paid
3 into a state unemployment compensation fund; or ~~which that~~, as a
4 condition for approval of this act for full tax credit against the tax imposed
5 by the federal unemployment tax act, is required, pursuant to such act, to
6 be an "employer" under this act.

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

14 (i) "Employment" means:

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

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

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

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

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

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

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

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

39 (b) the individual does not have a substantial investment in facilities
40 used in connection with the performance of the services ~~-, other than in~~
41 facilities for transportation); and

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

1 performed.

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

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

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

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

11 (3) The term "employment" ~~shall also include~~ *includes*:

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

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

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

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

40 (E) ~~Service~~ *Services* performed by an individual in the employ of this
41 state or any instrumentality thereof, any political subdivision of this state
42 or any instrumentality thereof, or in the employ of an Indian tribe, as
43 defined pursuant to section 3306(u) of the federal unemployment tax act,

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (iv) a corporation organized under the laws of the United States or of

1 any state.

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

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

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

21 (4) The term "employment" ~~shall does~~ not include: (A) ~~Service-~~
22 ~~Services~~ performed in the employ of an employer specified in subsection
23 (h)(3) ~~of this section~~ if such service is performed by an individual in the
24 exercise of duties:

25 (i) As an elected official;

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

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

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

31 (v) in a position ~~which that~~, under or pursuant to the laws of this state
32 or tribal law, is designated as a major nontenured policymaking or
33 advisory position or as a policymaking or advisory position the
34 performance of the duties of which ordinarily does not require more than
35 eight hours per week;

36 (B) ~~serviceservices~~ with respect to which unemployment
37 compensation is payable under an unemployment compensation system
38 established by an act of congress;

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

43 (D) ~~serviceservices~~ performed in the employ of the United States

1 government or an instrumentality of the United States exempt under the
2 constitution of the United States from the contributions imposed by this
3 act, except that to the extent that the congress of the United States shall
4 permit states to require any instrumentality of the United States to make
5 payments into an unemployment fund under a state unemployment
6 compensation law, all of the provisions of this act shall be applicable to
7 such instrumentalities, and to services performed for such
8 instrumentalities, in the same manner, to the same extent and on the same
9 terms as to all other employers, employing units, individuals and services.
10 If this state shall not be certified for any year by the federal security
11 agency under section 3304(c) of the federal internal revenue code of 1986,
12 the payments required of such instrumentalities with respect to such year
13 shall be refunded by the secretary from the fund in the same manner and
14 within the same period as is provided in ~~subsection (f)~~ of K.S.A. 44-
15 717(h), and amendments thereto, with respect to contributions erroneously
16 collected;

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

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

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

32 (H) ~~services~~services performed in any calendar quarter in the employ
33 of any organization exempt from income tax under section 501(a) of the
34 federal internal revenue code of 1986—(, other than an organization
35 described in section 401(a) or under section 521 of such code), if the
36 remuneration for such service is less than \$50. In construing the
37 application of the term "employment," if services performed during $\frac{1}{2}$ or
38 more of any pay period by an individual for the person employing such
39 individual constitute employment, all the services of such individual for
40 such period shall be deemed to be employment; but if the services
41 performed during more than $\frac{1}{2}$ of any such pay period by an individual for
42 the person employing such individual do not constitute employment, then
43 none of the services of such individual for such period shall be deemed to

1 be employment. As used in this subsection (i)(4)(H) the term "pay period"
2 means a period—(of not more than 31 consecutive days), for which a
3 payment of remuneration is ordinarily made to the individual by the person
4 employing such individual. This subsection (i)(4)(H) shall not be
5 applicable with respect to services with respect to which unemployment
6 compensation is payable under an unemployment compensation system
7 established by an act of congress;

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

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

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

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

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

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

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

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

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

1 on behalf of an employer or group of employers;

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

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

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

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

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

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

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

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

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

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

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

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

16 (i) Such person:

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

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

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

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

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

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

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

43 (Y) ~~services~~ *services* performed by an owner-operator of a motor

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

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

- 27 *(i) Negotiating for the acquisition or divestiture of mineral rights;*
28 *(ii) negotiating business agreements that provide exploration for or*
29 *development of minerals;*
30 *(iii) determining ownership in minerals through the research of*
31 *public and private records;*
32 *(iv) reviewing the status of title, curing title defects, providing title*
33 *due diligence and otherwise reducing title risk associated with ownership*
34 *in minerals or the acquisition and divestiture of mineral properties;*
35 *(v) managing rights or obligations derived from ownership of*
36 *interests in minerals; or*
37 *(vi) unitizing or pooling of interests in minerals. For purposes of this*
38 *subparagraph, "minerals" includes oil, natural gas or petroleum.*
39 *"Services" does not include services performed for a governmental entity*
40 *or any organization described in section 501(c)(3) of the federal internal*
41 *revenue code of 1986, or a federally recognized Indian tribe that is exempt*
42 *from income taxation under section 501(a) of the code.*

43 (j) "Employment office" means any office operated by this state and

1 maintained by the secretary of labor for the purpose of assisting persons to
2 become employed.

3 (k) "Fund" means the employment security fund established by this
4 act, to which all contributions and reimbursement payments required and
5 from which all benefits provided under this act shall be paid and including
6 all money received from the federal government as reimbursements
7 pursuant to section 204 of the federal-state extended compensation act of
8 1970, and amendments thereto.

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

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

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

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

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

22 (2) the amount of any payment—~~€,~~ including any amount paid by an
23 employing unit for insurance or annuities, or into a fund, to provide for
24 any such payment), made to, or on behalf of, an employee or any of such
25 employee's dependents under a plan or system established by an employer
26 ~~which~~ *that* makes provisions for employees generally, for a class or classes
27 of employees or for such employees or a class or classes of employees and
28 their dependents, on account of: (A) Sickness or accident disability, except
29 in the case of any payment made to an employee or such employee's
30 dependents, this subparagraph shall exclude from the term "wages" only
31 payments—~~which~~ *that* are received under a workers compensation law. Any
32 third party—~~which~~ *that* makes a payment included as wages by reason of
33 this subparagraph (2)(A) shall be treated as the employer with respect to
34 such wages; or (B) medical and hospitalization expenses in connection
35 with sickness or accident disability; or (C) death;

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

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

43 (A) From or to a trust described in section 401(a) of the federal

1 internal revenue code of 1986 ~~which~~ *that* is exempt from tax under section
2 501(a) of the federal internal revenue code of 1986 at the time of such
3 payment unless such payment is made to an employee of the trust as
4 remuneration for services rendered as such employee and not as a
5 beneficiary of the trust;

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

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

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

18 (E) under or to an exempt governmental deferred compensation plan
19 as defined in section 3121(v)(3) of the federal internal revenue code of
20 1986;

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

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

30 (5) the payment by an employing unit ~~(, without deduction from the~~
31 remuneration of the employee), of the tax imposed upon an employee
32 under section 3101 of the federal internal revenue code of 1986 with
33 respect to remuneration paid to an employee for domestic service in a
34 private home of the employer or for agricultural labor;

35 (6) remuneration paid in any medium other than cash to an employee
36 for service not in the course of the employer's trade or business;

37 (7) remuneration paid to or on behalf of an employee if and to the
38 extent that at the time of the payment of such remuneration it is reasonable
39 to believe that a corresponding deduction is allowable under section 217 of
40 the federal internal revenue code of 1986 relating to moving expenses;

41 (8) any payment or series of payments by an employer to an
42 employee or any of such employee's dependents ~~which~~ *that* is paid:

43 (A) Upon or after the termination of an employee's employment

1 relationship because of (i) death or (ii) retirement for disability; and

2 (B) under a plan established by the employer—~~which~~ *that* makes
3 provisions for employees generally, a class or classes of employees or for
4 such employees or a class or classes of employees and their dependents,
5 other than any such payment or series of payments—~~which~~ *that* would have
6 been paid if the employee's employment relationship had not been so
7 terminated;

8 (9) remuneration for agricultural labor paid in any medium other than
9 cash;

10 (10) any payment made, or benefit furnished, to or for the benefit of
11 an employee if at the time of such payment or such furnishing it is
12 reasonable to believe that the employee will be able to exclude such
13 payment or benefit from income under section 129 of the federal internal
14 revenue code of 1986—~~which~~ *that* relates to dependent care assistance
15 programs;

16 (11) the value of any meals or lodging furnished by or on behalf of
17 the employer if at the time of such furnishing it is reasonable to believe
18 that the employee will be able to exclude such items from income under
19 section 119 of the federal internal revenue code of 1986;

20 (12) any payment made by an employer to a survivor or the estate of
21 a former employee after the calendar year in which such employee died;

22 (13) any benefit provided to or on behalf of an employee if at the time
23 such benefit is provided it is reasonable to believe that the employee will
24 be able to exclude such benefit from income under section 74(c), 117 or
25 132 of the federal internal revenue code of 1986;

26 (14) any payment made, or benefit furnished, to or for the benefit of
27 an employee, if at the time of such payment or such furnishing it is
28 reasonable to believe that the employee will be able to exclude such
29 payment or benefit from income under section 127 of the federal internal
30 revenue code of 1986 relating to educational assistance to the employee; or

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

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

43 Any amount deferred under a nonqualified deferred compensation plan

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

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

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

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

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

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

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

29 (1) Admits as regular students only individuals having a certificate of
30 graduation from a high school, or the recognized equivalent of such a
31 certificate;

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

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

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

40 Notwithstanding any of the foregoing provisions of this subsection (u),
41 all colleges and universities in this state are institutions of higher education
42 for purposes of this section, except that no college, university, junior
43 college or other postsecondary school or institution ~~which~~ that is operated

1 by the federal government or any agency thereof shall be an institution of
2 higher education for purposes of the employment security law.

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

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

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

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

27 (C) In connection with the production or harvesting of any
28 commodity defined as an agricultural commodity in section (15)(g) of the
29 agricultural marketing act, as amended ~~46 Stat. 1500, sec. 3; 12 U.S.C. §~~
30 1141j), or in connection with the ginning of cotton, or in connection with
31 the operation or maintenance of ditches, canals, reservoirs or waterways,
32 not owned or operated for profit, used exclusively for supplying and
33 storing water for farming purposes.

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

40 (ii) in the employ of a group of operators of farms ~~or a cooperative~~
41 organization of which such operators are members), in the performance of
42 ~~service services~~ described in paragraph (i) ~~above of this subsection (w)(1)~~
43 ~~(D)~~, but only if such operators produced more than ½ of the commodity

1 with respect to which such service is performed;

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

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

9 (2) "Agricultural labor" does not include ~~service~~ ~~services~~ performed
10 prior to January 1, 1980, by an individual who is an alien admitted to the
11 United States to perform service in agricultural labor pursuant to sections
12 214(c) and 101(a)(15)(H) of the federal immigration and nationality act.

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

18 (4) For the purpose of this section, if an employing unit does not
19 maintain sufficient records to separate agricultural labor from other
20 employment, all services performed during any pay period by an
21 individual for the person employing such individual shall be deemed to be
22 agricultural labor if services performed during $\frac{1}{2}$ or more of such pay
23 period constitute agricultural labor; but if the services performed during
24 more than $\frac{1}{2}$ of any such pay period by an individual for the person
25 employing such individual do not constitute agricultural labor, then none
26 of the services of such individual for such period shall be deemed to be
27 agricultural labor. As used in this subsection ~~(w)~~, the term "pay period"
28 means a period of not more than 31 consecutive days for which a payment
29 of remuneration is ordinarily made to the individual by the person
30 employing such individual.

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

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

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

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

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

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

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

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

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

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

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

31 Sec. 9. K.S.A. 2020 Supp. 44-704 is hereby amended to read as
32 follows: 44-704. (a) *Payment of benefits*. All benefits provided herein shall
33 be payable from the fund. All benefits shall be paid through the secretary
34 of labor, in accordance with such rules and regulations as the secretary
35 may adopt. Benefits based on service in employment defined in K.S.A. 44-
36 703(i)(3)(E) and (i)(3)(F), and amendments thereto, shall be payable in the
37 same amount, on the same terms and subject to the same conditions as
38 compensation payable on the basis of other service subject to this act
39 except as provided in K.S.A. 44-705(e) and 44-711(e), and amendments
40 thereto.

41 (b) *Determined weekly benefit amount*. An individual's determined
42 weekly benefit amount shall be an amount equal to 4.25% of the
43 individual's total wages for insured work paid during that calendar quarter

1 of the individual's base period that such total wages were highest, subject
2 to the following limitations:

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

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

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

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

31 (2) For initial claims effective on or after July 1, 2015, the maximum
32 weekly benefit amount shall be determined as follows: On July 1 of each
33 year, the secretary shall determine the maximum weekly benefit amount by
34 computing 55% of the average weekly wages paid to employees in insured
35 work during the previous calendar year, but not to be less than \$474, and
36 shall, prior to that date, announce the maximum weekly benefit amount so
37 determined by publication in the Kansas register. Such computation shall
38 be made by dividing the gross wages reported as paid for insured work
39 during the previous calendar year by the product of the average of mid-
40 month employment during such calendar year multiplied by 52. The
41 maximum weekly benefit amount so determined and announced for the
42 12-month period shall apply only to those claims filed in that period
43 qualifying for maximum payment under the foregoing formula. All claims

1 qualifying for payment at the maximum weekly benefit amount shall be
2 paid at the maximum weekly benefit amount in effect when the benefit
3 year to which the claim relates was first established, notwithstanding a
4 change in the maximum benefit amount for a subsequent 12-month period.
5 If the computed maximum weekly benefit amount is not a multiple of \$1,
6 then the computed maximum weekly benefit amount shall be reduced to
7 the next lower multiple of \$1.

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

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

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

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

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

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

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

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

40 (B) severance pay, in lieu of notice, under the provisions of public
41 law 100-379, the federal worker adjustment and retraining notification act,
42 29 U.S.C. §§ 2101 through 2109;

43 (C) all other severance pay, separation pay, bonuses, wages in lieu of

1 notice or remuneration of a similar nature that is payable after the
2 severance of the employment relationship, except as set out in subsection
3 (f)(1)(B); and

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

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

12 (g) *Duration of benefits.* Any otherwise eligible individual shall be
13 entitled during any benefit year to a total amount of benefits equal to
14 whichever is the lesser of 26 times such individual's weekly benefit
15 amount, or $\frac{1}{3}$ of such individual's wages for insured work paid during such
16 individual's base period. Such total amount of benefits, if not a multiple of
17 \$1, shall be reduced to the next lower multiple of \$1.

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

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

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

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

41 (3) Notwithstanding the reemployment provisions of K.S.A. 44-
42 705(e), and amendments thereto, any individual whose benefit amount is
43 completely reduced under this subsection for 52 or more weeks shall, upon

1 exhaustion of the separation pay, be entitled to a new benefit year based
2 upon entitlement from the base period of the claim that was reduced.

3 (j) Except as provided in subsection (k), for weeks commencing on
4 and after January 1, 2014, *and ending before September 5, 2021*, if at the
5 beginning of the benefit year, the three-month seasonally adjusted average
6 unemployment rate for the state of Kansas is: (1) Less than 4.5%, a
7 claimant shall be eligible for a maximum of 16 weeks of benefits; (2) at
8 least 4.5% but less than 6%, a claimant shall be eligible for a maximum of
9 20 weeks of benefits; or (3) at least 6%, a claimant shall be eligible for a
10 maximum of 26 weeks of benefits.

11 (k) On and after the effective date of this act, a claimant shall be
12 eligible for a maximum of 26 weeks of benefits. A claimant who filed a
13 new claim on or after January 1, 2020, and before the effective date of this
14 act shall be eligible for a maximum of 26 weeks of benefits including the
15 number of weeks of benefits received after January 1, 2020, and before the
16 effective date of this act. This subsection shall not apply to initial claims
17 effective on and after ~~April 1~~ *September 5, 2021*.

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

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

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

38 (a) The claimant has registered for work at and thereafter continued
39 to report at an employment office in accordance with rules and regulations
40 adopted by the secretary, except that, subject to the provisions of K.S.A.
41 44-704(a), and amendments thereto, the secretary may adopt rules and
42 regulations that waive or alter either or both of the requirements of this
43 subsection.

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

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

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

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

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

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

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

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

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

42 (3) *To facilitate the requirements of paragraph (2), the secretary shall*
43 *provide readily accessible means for employers to notify the department*

1 *when a claimant refuses to return to work or refuses an offer of*
2 *employment, including by telephone, email or an online web portal.*
3 *Nothing in this subsection shall be construed as to require an employer to*
4 *report such job refusals to the department.*

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

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

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

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

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

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

28 *(d) (1) Except as provided further, the claimant has been unemployed*
29 *for a waiting period of one week or the claimant is unemployed and has*
30 *satisfied the requirement for a waiting period of one week under the shared*
31 *work unemployment compensation program as provided in K.S.A. 44-*
32 *757(k)(4), and amendments thereto, and that period of one week, in either*
33 *case, occurs within the benefit year that includes the week for which the*
34 *claimant is claiming benefits. No week shall be counted as a week of*
35 *unemployment for the purposes of this subsection:*

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

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

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

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

3 (i) New claims by claimants who become unemployed as a result of
4 an employer terminating business operations within this state, declaring
5 bankruptcy or initiating a work force reduction pursuant to public law 100-
6 379, the federal worker adjustment and retraining notification act, 29
7 U.S.C. §§ 2101 through 2109, as amended; or

8 (ii) new claims filed on or after April 5, 2020, through December 26,
9 2020, in accordance with the families first coronavirus response act, public
10 law 116-127 and the federal CARES act, public law 116-136.

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

13 (3) If the waiting week requirement of paragraph (1) applies, a
14 claimant shall become eligible to receive compensation for the waiting
15 period of one week, pursuant to paragraph (1), upon completion of three
16 weeks of unemployment consecutive to such waiting period. This
17 paragraph shall not apply to initial claims effective on and after April 1,
18 2021.

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

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

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

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

1 provider;

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

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

7 Sec. 11. K.S.A. 2020 Supp. 44-706 is hereby amended to read as
8 follows: 44-706. The secretary shall examine whether an individual has
9 separated from employment for each week claimed. The secretary shall
10 apply the provisions of this section to the individual's most recent
11 employment prior to the week claimed. An individual shall be disqualified
12 for benefits:

13 (a) If the individual left work voluntarily without good cause
14 attributable to the work or the employer, subject to the other provisions of
15 this subsection. For purposes of this subsection, "good cause" is cause of
16 such gravity that would impel a reasonable, not supersensitive, individual
17 exercising ordinary common sense to leave employment. Good cause
18 requires a showing of good faith of the individual leaving work, including
19 the presence of a genuine desire to work. Failure to return to work after
20 expiration of approved personal or medical leave, or both, shall be
21 considered a voluntary resignation. After a temporary job assignment,
22 failure of an individual to affirmatively request an additional assignment
23 on the next succeeding workday, if required by the employment
24 agreement, after completion of a given work assignment, shall constitute
25 leaving work voluntarily. The disqualification shall begin the day
26 following the separation and shall continue until after the individual has
27 become reemployed and has had earnings from insured work of at least
28 three times the individual's weekly benefit amount. An individual shall not
29 be disqualified under this subsection if:

30 (1) The individual was forced to leave work because of illness or
31 injury upon the advice of a licensed and practicing health care provider
32 and, upon learning of the necessity for absence, immediately notified the
33 employer thereof, or the employer consented to the absence, and after
34 recovery from the illness or injury, when recovery was certified by a
35 practicing health care provider, the individual returned to the employer and
36 offered to perform services and the individual's regular work or
37 comparable and suitable work was not available. As used in this paragraph
38 "health care provider" means any person licensed by the proper licensing
39 authority of any state to engage in the practice of medicine and surgery,
40 osteopathy, chiropractic, dentistry, optometry, podiatry or psychology;

41 (2) the individual left temporary work to return to the regular
42 employer;

43 (3) the individual left work to enlist in the armed forces of the United

1 States, but was rejected or delayed from entry;

2 (4) the spouse of an individual who is a member of the armed forces
3 of the United States who left work because of the voluntary or involuntary
4 transfer of the individual's spouse from one job to another job, which is for
5 the same employer or for a different employer, at a geographic location
6 which makes it unreasonable for the individual to continue work at the
7 individual's job. For the purposes of this provision the term "armed forces"
8 means active duty in the army, navy, marine corps, air force, coast guard or
9 any branch of the military reserves of the United States;

10 (5) the individual left work because of hazardous working conditions;
11 in determining whether or not working conditions are hazardous for an
12 individual, the degree of risk involved to the individual's health, safety and
13 morals, the individual's physical fitness and prior training and the working
14 conditions of workers engaged in the same or similar work for the same
15 and other employers in the locality shall be considered; as used in this
16 paragraph, "hazardous working conditions" means working conditions that
17 could result in a danger to the physical or mental well-being of the
18 individual; each determination as to whether hazardous working
19 conditions exist shall include, but shall not be limited to, a consideration
20 of: (A) The safety measures used or the lack thereof; and (B) the condition
21 of equipment or lack of proper equipment; no work shall be considered
22 hazardous if the working conditions surrounding the individual's work are
23 the same or substantially the same as the working conditions generally
24 prevailing among individuals performing the same or similar work for
25 other employers engaged in the same or similar type of activity;

26 (6) the individual left work to enter training approved under section
27 236(a)(1) of the federal trade act of 1974, provided the work left is not of a
28 substantially equal or higher skill level than the individual's past adversely
29 affected employment, as defined for purposes of the federal trade act of
30 1974, and wages for such work are not less than 80% of the individual's
31 average weekly wage as determined for the purposes of the federal trade
32 act of 1974;

33 (7) the individual left work because of unwelcome harassment of the
34 individual by the employer or another employee of which the employing
35 unit had knowledge and that would impel the average worker to give up
36 such worker's employment;

37 (8) the individual left work to accept better work; each determination
38 as to whether or not the work accepted is better work shall include, but
39 shall not be limited to, consideration of: (A) The rate of pay, the hours of
40 work and the probable permanency of the work left as compared to the
41 work accepted; (B) the cost to the individual of getting to the work left in
42 comparison to the cost of getting to the work accepted; and (C) the
43 distance from the individual's place of residence to the work accepted in

1 comparison to the distance from the individual's residence to the work left;
2 (9) the individual left work as a result of being instructed or requested
3 by the employer, a supervisor or a fellow employee to perform a service or
4 commit an act in the scope of official job duties which is in violation of an
5 ordinance or statute;

6 (10) the individual left work because of a substantial violation of the
7 work agreement by the employing unit and, before the individual left, the
8 individual had exhausted all remedies provided in such agreement for the
9 settlement of disputes before terminating. For the purposes of this
10 paragraph, a demotion based on performance does not constitute a
11 violation of the work agreement;

12 (11) after making reasonable efforts to preserve the work, the
13 individual left work due to a personal emergency of such nature and
14 compelling urgency that it would be contrary to good conscience to
15 impose a disqualification; or

16 (12) (A) the individual left work due to circumstances resulting from
17 domestic violence, including:

18 (i) The individual's reasonable fear of future domestic violence at or
19 en route to or from the individual's place of employment;

20 (ii) the individual's need to relocate to another geographic area in
21 order to avoid future domestic violence;

22 (iii) the individual's need to address the physical, psychological and
23 legal impacts of domestic violence;

24 (iv) the individual's need to leave employment as a condition of
25 receiving services or shelter from an agency which provides support
26 services or shelter to victims of domestic violence; or

27 (v) the individual's reasonable belief that termination of employment
28 is necessary to avoid other situations which may cause domestic violence
29 and to provide for the future safety of the individual or the individual's
30 family.

31 (B) An individual may prove the existence of domestic violence by
32 providing one of the following:

33 (i) A restraining order or other documentation of equitable relief by a
34 court of competent jurisdiction;

35 (ii) a police record documenting the abuse;

36 (iii) documentation that the abuser has been convicted of one or more
37 of the offenses enumerated in articles 34 and 35 of chapter 21 of the
38 Kansas Statutes Annotated, prior to their repeal, or articles 54 or 55 of
39 chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2020 Supp. 21-
40 6104, 21-6325, 21-6326 or 21-6418 through 21-6422, and amendments
41 thereto, where the victim was a family or household member;

42 (iv) medical documentation of the abuse;

43 (v) a statement provided by a counselor, social worker, health care

1 provider, clergy, shelter worker, legal advocate, domestic violence or
2 sexual assault advocate or other professional who has assisted the
3 individual in dealing with the effects of abuse on the individual or the
4 individual's family; or

5 (vi) a sworn statement from the individual attesting to the abuse.

6 (C) No evidence of domestic violence experienced by an individual,
7 including the individual's statement and corroborating evidence, shall be
8 disclosed by the department of labor unless consent for disclosure is given
9 by the individual.

10 (b) If the individual has been discharged or suspended for misconduct
11 connected with the individual's work. The disqualification shall begin the
12 day following the separation and shall continue until after the individual
13 becomes reemployed and in cases where the disqualification is due to
14 discharge for misconduct has had earnings from insured work of at least
15 three times the individual's determined weekly benefit amount, except that
16 if an individual is discharged for gross misconduct connected with the
17 individual's work, such individual shall be disqualified for benefits until
18 such individual again becomes employed and has had earnings from
19 insured work of at least eight times such individual's determined weekly
20 benefit amount. In addition, all wage credits attributable to the
21 employment from which the individual was discharged for gross
22 misconduct connected with the individual's work shall be canceled. No
23 such cancellation of wage credits shall affect prior payments made as a
24 result of a prior separation.

25 (1) For the purposes of this subsection, "misconduct" is defined as a
26 violation of a duty or obligation reasonably owed the employer as a
27 condition of employment including, but not limited to, a violation of a
28 company rule, including a safety rule, if: (A) The individual knew or
29 should have known about the rule; (B) the rule was lawful and reasonably
30 related to the job; and (C) the rule was fairly and consistently enforced.

31 (2) (A) Failure of the employee to notify the employer of an absence
32 and an individual's leaving work prior to the end of such individual's
33 assigned work period without permission shall be considered prima facie
34 evidence of a violation of a duty or obligation reasonably owed the
35 employer as a condition of employment.

36 (B) For the purposes of this subsection, misconduct shall include, but
37 not be limited to, violation of the employer's reasonable attendance
38 expectations if the facts show:

39 (i) The individual was absent or tardy without good cause;

40 (ii) the individual had knowledge of the employer's attendance
41 expectation; and

42 (iii) the employer gave notice to the individual that future absence or
43 tardiness may or will result in discharge.

1 (C) For the purposes of this subsection, if an employee disputes being
2 absent or tardy without good cause, the employee shall present evidence
3 that a majority of the employee's absences or tardiness were for good
4 cause. If the employee alleges that the employee's repeated absences or
5 tardiness were the result of health related issues, such evidence shall
6 include documentation from a licensed and practicing health care provider
7 as defined in subsection (a)(1).

8 (3) (A) The term "gross misconduct" as used in this subsection shall
9 be construed to mean conduct evincing extreme, willful or wanton
10 misconduct as defined by this subsection. Gross misconduct shall include,
11 but not be limited to: (i) Theft; (ii) fraud; (iii) intentional damage to
12 property; (iv) intentional infliction of personal injury; or (v) any conduct
13 that constitutes a felony.

14 (B) For the purposes of this subsection, the following shall be
15 conclusive evidence of gross misconduct:

16 (i) The use of alcoholic liquor, cereal malt beverage or a
17 nonprescribed controlled substance by an individual while working;

18 (ii) the impairment caused by alcoholic liquor, cereal malt beverage
19 or a nonprescribed controlled substance by an individual while working;

20 (iii) a positive breath alcohol test or a positive chemical test,
21 provided:

22 (a) The test was either:

23 (1) Required by law and was administered pursuant to the drug free
24 workplace act, 41 U.S.C. § 701 et seq.;

25 (2) administered as part of an employee assistance program or other
26 drug or alcohol treatment program in which the employee was
27 participating voluntarily or as a condition of further employment;

28 (3) requested pursuant to a written policy of the employer of which
29 the employee had knowledge and was a required condition of
30 employment;

31 (4) required by law and the test constituted a required condition of
32 employment for the individual's job; or

33 (5) there was reasonable suspicion to believe that the individual used,
34 had possession of, or was impaired by alcoholic liquor, cereal malt
35 beverage or a nonprescribed controlled substance while working;

36 (b) the test sample was collected either:

37 (1) As prescribed by the drug free workplace act, 41 U.S.C. § 701 et
38 seq.;

39 (2) as prescribed by an employee assistance program or other drug or
40 alcohol treatment program in which the employee was participating
41 voluntarily or as a condition of further employment;

42 (3) as prescribed by the written policy of the employer of which the
43 employee had knowledge and which constituted a required condition of

1 employment;

2 (4) as prescribed by a test which was required by law and which
3 constituted a required condition of employment for the individual's job; or

4 (5) at a time contemporaneous with the events establishing probable
5 cause;

6 (c) the collecting and labeling of a chemical test sample was
7 performed by a licensed health care professional or any other individual
8 certified pursuant to paragraph (b)(3)(A)(iii)(f) or authorized to collect or
9 label test samples by federal or state law, or a federal or state rule or
10 regulation having the force or effect of law, including law enforcement
11 personnel;

12 (d) the chemical test was performed by a laboratory approved by the
13 United States department of health and human services or licensed by the
14 department of health and environment, except that a blood sample may be
15 tested for alcohol content by a laboratory commonly used for that purpose
16 by state law enforcement agencies;

17 (e) the chemical test was confirmed by gas chromatography, gas
18 chromatography-mass spectroscopy or other comparably reliable
19 analytical method, except that no such confirmation is required for a blood
20 alcohol sample or a breath alcohol test;

21 (f) the breath alcohol test was administered by an individual trained
22 to perform breath tests, the breath testing instrument used was certified
23 and operated strictly according to a description provided by the
24 manufacturers and the reliability of the instrument performance was
25 assured by testing with alcohol standards; and

26 (g) the foundation evidence establishes, beyond a reasonable doubt,
27 that the test results were from the sample taken from the individual;

28 (iv) an individual's refusal to submit to a chemical test or breath
29 alcohol test, provided:

30 (a) The test meets the standards of the drug free workplace act, 41
31 U.S.C. § 701 et seq.;

32 (b) the test was administered as part of an employee assistance
33 program or other drug or alcohol treatment program in which the
34 employee was participating voluntarily or as a condition of further
35 employment;

36 (c) the test was otherwise required by law and the test constituted a
37 required condition of employment for the individual's job;

38 (d) the test was requested pursuant to a written policy of the employer
39 of which the employee had knowledge and was a required condition of
40 employment; or

41 (e) there was reasonable suspicion to believe that the individual used,
42 possessed or was impaired by alcoholic liquor, cereal malt beverage or a
43 nonprescribed controlled substance while working;

1 (v) an individual's dilution or other tampering of a chemical test.

2 (C) For purposes of this subsection:

3 (i) "Alcohol concentration" means the number of grams of alcohol
4 per 210 liters of breath;

5 (ii) "alcoholic liquor" ~~shall be defined~~ *means the same* as provided in
6 K.S.A. 41-102, and amendments thereto;

7 (iii) "cereal malt beverage" ~~shall be defined~~ *means the same* as
8 provided in K.S.A. 41-2701, and amendments thereto;

9 (iv) "chemical test" ~~shall include~~ *includes*, but is not limited to, tests
10 of urine, blood or saliva;

11 (v) "controlled substance" ~~shall be defined~~ *means the same* as
12 provided in K.S.A. 2020 Supp. 21-5701, and amendments thereto;

13 (vi) "required by law" means required by a federal or state law, a
14 federal or state rule or regulation having the force and effect of law, a
15 county resolution or municipal ordinance, or a policy relating to public
16 safety adopted in an open meeting by the governing body of any special
17 district or other local governmental entity;

18 (vii) "positive breath test" ~~shall mean~~ *means* a test result showing an
19 alcohol concentration of 0.04 or greater, or the levels listed in 49 C.F.R.
20 part 40, if applicable, unless the test was administered as part of an
21 employee assistance program or other drug or alcohol treatment program
22 in which the employee was participating voluntarily or as a condition of
23 further employment, in which case "positive chemical test" shall mean a
24 test result showing an alcohol concentration at or above the levels
25 provided for in the assistance or treatment program;

26 (viii) "positive chemical test" ~~shall mean~~ *means* a chemical result
27 showing a concentration at or above the levels listed in K.S.A. 44-501, and
28 amendments thereto, or 49 C.F.R. part 40, as applicable, for the drugs or
29 abuse listed therein, unless the test was administered as part of an
30 employee assistance program or other drug or alcohol treatment program
31 in which the employee was participating voluntarily or as a condition of
32 further employment, in which case "positive chemical test" ~~shall mean~~
33 *means* a chemical result showing a concentration at or above the levels
34 provided for in the assistance or treatment program.

35 (4) An individual shall not be disqualified under this subsection if the
36 individual is discharged under the following circumstances:

37 (A) The employer discharged the individual after learning the
38 individual was seeking other work or when the individual gave notice of
39 future intent to quit, except that the individual shall be disqualified after
40 the time at which such individual intended to quit and any individual who
41 commits misconduct after such individual gives notice to such individual's
42 intent to quit shall be disqualified;

43 (B) the individual was making a good-faith effort to do the assigned

1 work but was discharged due to:

2 (i) Inefficiency;

3 (ii) unsatisfactory performance due to inability, incapacity or lack of
4 training or experience;

5 (iii) isolated instances of ordinary negligence or inadvertence;

6 (iv) good-faith errors in judgment or discretion; or

7 (v) unsatisfactory work or conduct due to circumstances beyond the
8 individual's control; or

9 (C) the individual's refusal to perform work in excess of the contract
10 of hire.

11 (c) If the individual has failed, without good cause, to either apply for
12 suitable work when so directed by the employment office of the secretary
13 of labor, or to accept suitable work when offered to the individual by the
14 employment office, the secretary of labor, or an employer, such
15 disqualification shall begin with the week in which such failure occurred
16 and shall continue until the individual becomes reemployed and has had
17 earnings from insured work of at least three times such individual's
18 determined weekly benefit amount. In determining whether or not any
19 work is suitable for an individual, the secretary of labor, or a person or
20 persons designated by the secretary, shall consider the degree of risk
21 involved to health, safety and morals, physical fitness and prior training,
22 experience and prior earnings, length of unemployment and prospects for
23 securing local work in the individual's customary occupation or work for
24 which the individual is reasonably fitted by training or experience, and the
25 distance of the available work from the individual's residence.
26 Notwithstanding any other provisions of this act, an otherwise eligible
27 individual shall not be disqualified for refusing an offer of suitable
28 employment, or failing to apply for suitable employment when notified by
29 an employment office, or for leaving the individual's most recent work
30 accepted during approved training, including training approved under
31 section 236(a)(1) of the trade act of 1974, if the acceptance of or applying
32 for suitable employment or continuing such work would require the
33 individual to terminate approved training and no work shall be deemed
34 suitable and benefits shall not be denied under this act to any otherwise
35 eligible individual for refusing to accept new work under any of the
36 following conditions: (1) If the position offered is vacant due directly to a
37 strike, lockout or other labor dispute; (2) if the remuneration, hours or
38 other conditions of the work offered are substantially less favorable to the
39 individual than those prevailing for similar work in the locality; (3) if as a
40 condition of being employed, the individual would be required to join or
41 resign from or refrain from joining any labor organization; and (4) if the
42 individual left employment as a result of domestic violence, and the
43 position offered does not reasonably accommodate the individual's

1 physical, psychological, safety, or legal needs relating to such domestic
2 violence.

3 (d) For any week with respect to which the secretary of labor, or a
4 person or persons designated by the secretary, finds that the individual's
5 unemployment is due to a stoppage of work which exists because of a
6 labor dispute or there would have been a work stoppage had normal
7 operations not been maintained with other personnel previously and
8 currently employed by the same employer at the factory, establishment or
9 other premises at which the individual is or was last employed, except that
10 this subsection (d) shall not apply if it is shown to the satisfaction of the
11 secretary of labor, or a person or persons designated by the secretary, that:
12 (1) The individual is not participating in or financing or directly interested
13 in the labor dispute which caused the stoppage of work; and (2) the
14 individual does not belong to a grade or class of workers of which,
15 immediately before the commencement of the stoppage, there were
16 members employed at the premises at which the stoppage occurs any of
17 whom are participating in or financing or directly interested in the dispute.
18 If in any case separate branches of work which are commonly conducted
19 as separate businesses in separate premises are conducted in separate
20 departments of the same premises, each such department shall, for the
21 purpose of this subsection be deemed to be a separate factory,
22 establishment or other premises. For the purposes of this subsection,
23 failure or refusal to cross a picket line or refusal for any reason during the
24 continuance of such labor dispute to accept the individual's available and
25 customary work at the factory, establishment or other premises where the
26 individual is or was last employed shall be considered as participation and
27 interest in the labor dispute.

28 (e) For any week with respect to which or a part of which the
29 individual has received or is seeking unemployment benefits under the
30 unemployment compensation law of any other state or of the United
31 States, except that if the appropriate agency of such other state or the
32 United States finally determines that the individual is not entitled to such
33 unemployment benefits, this disqualification shall not apply.

34 (f) For any week with respect to which the individual is entitled to
35 receive any unemployment allowance or compensation granted by the
36 United States under an act of congress to ex-service men and women in
37 recognition of former service with the military or naval services of the
38 United States.

39 ~~(g) For the period of five years beginning with the first day following~~
40 ~~the last week of unemployment for which the individual received benefits,~~
41 ~~or for five years from the date the act was committed, whichever is the~~
42 ~~later.~~ If the individual, or another in such individual's behalf with the
43 knowledge of the individual, has knowingly made a false statement or

1 representation, or has knowingly failed to disclose a material fact to obtain
2 or increase benefits under this act or any other unemployment
3 compensation law administered by the secretary of labor, *unless the*
4 *individual has repaid the full amount of the overpayment as determined by*
5 *the secretary or the secretary's designee, including, but not limited to, the*
6 *total amount of money erroneously paid as benefits or unlawfully*
7 *obtained, interest, penalties and any other costs or fees provided by law. If*
8 *the individual has made such repayment, the individual shall be*
9 *disqualified for period of one year for the first occurrence or five years for*
10 *any subsequent occurrence, beginning with the first day following the date*
11 *the department of labor confirmed the individual has successfully repaid*
12 *the full amount of the overpayment.* In addition to the penalties set forth in
13 K.S.A. 44-719, and amendments thereto, an individual who has knowingly
14 made a false statement or representation or who has knowingly failed to
15 disclose a material fact to obtain or increase benefits under this act or any
16 other unemployment compensation law administered by the secretary of
17 labor shall be liable for a penalty in the amount equal to 25% of the
18 amount of benefits unlawfully received. Notwithstanding any other
19 provision of law, such penalty shall be deposited into the employment
20 security trust fund. ***{No person who is a victim of identify theft shall be***
21 ***subject to the provisions of this subsection. The secretary shall***
22 ***investigate all cases of an alleged false statement or representation or***
23 ***failure to disclose a material fact to ensure no victim of identity theft is***
24 ***disqualified, required to repay or subject to any penalty as provided by***
25 ***this subsection as a result of identity theft.***

26 (h) For any week with respect to which the individual is receiving
27 compensation for temporary total disability or permanent total disability
28 under the workmen's compensation law of any state or under a similar law
29 of the United States.

30 (i) For any week of unemployment on the basis of service in an
31 instructional, research or principal administrative capacity for an
32 educational institution as defined in K.S.A. 44-703(v), and amendments
33 thereto, if such week begins during the period between two successive
34 academic years or terms or, when an agreement provides instead for a
35 similar period between two regular but not successive terms during such
36 period or during a period of paid sabbatical leave provided for in the
37 individual's contract, if the individual performs such services in the first of
38 such academic years or terms and there is a contract or a reasonable
39 assurance that such individual will perform services in any such capacity
40 for any educational institution in the second of such academic years or
41 terms.

42 (j) For any week of unemployment on the basis of service in any
43 capacity other than service in an instructional, research, or administrative

1 capacity in an educational institution, as defined in K.S.A. 44-703(v), and
2 amendments thereto, if such week begins during the period between two
3 successive academic years or terms if the individual performs such
4 services in the first of such academic years or terms and there is a
5 reasonable assurance that the individual will perform such services in the
6 second of such academic years or terms, except that if benefits are denied
7 to the individual under this subsection and the individual was not offered
8 an opportunity to perform such services for the educational institution for
9 the second of such academic years or terms, such individual shall be
10 entitled to a retroactive payment of benefits for each week for which the
11 individual filed a timely claim for benefits and for which benefits were
12 denied solely by reason of this subsection.

13 (k) For any week of unemployment on the basis of service in any
14 capacity for an educational institution as defined in K.S.A. 44-703(v), and
15 amendments thereto, if such week begins during an established and
16 customary vacation period or holiday recess, if the individual performs
17 services in the period immediately before such vacation period or holiday
18 recess and there is a reasonable assurance that such individual will perform
19 such services in the period immediately following such vacation period or
20 holiday recess.

21 (l) For any week of unemployment on the basis of any services,
22 substantially all of which consist of participating in sports or athletic
23 events or training or preparing to so participate, if such week begins during
24 the period between two successive sport seasons or similar period if such
25 individual performed services in the first of such seasons or similar periods
26 and there is a reasonable assurance that such individual will perform such
27 services in the later of such seasons or similar periods.

28 (m) For any week on the basis of services performed by an alien
29 unless such alien is an individual who was lawfully admitted for
30 permanent residence at the time such services were performed, was
31 lawfully present for purposes of performing such services, or was
32 permanently residing in the United States under color of law at the time
33 such services were performed, including an alien who was lawfully present
34 in the United States as a result of the application of the provisions of
35 section 212(d)(5) of the federal immigration and nationality act. Any data
36 or information required of individuals applying for benefits to determine
37 whether benefits are not payable to them because of their alien status shall
38 be uniformly required from all applicants for benefits. In the case of an
39 individual whose application for benefits would otherwise be approved, no
40 determination that benefits to such individual are not payable because of
41 such individual's alien status shall be made except upon a preponderance
42 of the evidence.

43 (n) For any week in which an individual is receiving a governmental

1 or other pension, retirement or retired pay, annuity or other similar
2 periodic payment under a plan maintained by a base period employer and
3 to which the entire contributions were provided by such employer, except
4 that: (1) If the entire contributions to such plan were provided by the base
5 period employer but such individual's weekly benefit amount exceeds such
6 governmental or other pension, retirement or retired pay, annuity or other
7 similar periodic payment attributable to such week, the weekly benefit
8 amount payable to the individual shall be reduced, but not below zero, by
9 an amount equal to the amount of such pension, retirement or retired pay,
10 annuity or other similar periodic payment which is attributable to such
11 week; or (2) if only a portion of contributions to such plan were provided
12 by the base period employer, the weekly benefit amount payable to such
13 individual for such week shall be reduced, but not below zero, by the
14 prorated weekly amount of the pension, retirement or retired pay, annuity
15 or other similar periodic payment after deduction of that portion of the
16 pension, retirement or retired pay, annuity or other similar periodic
17 payment that is directly attributable to the percentage of the contributions
18 made to the plan by such individual; or (3) if the entire contributions to the
19 plan were provided by such individual, or by the individual and an
20 employer, or any person or organization, who is not a base period
21 employer, no reduction in the weekly benefit amount payable to the
22 individual for such week shall be made under this subsection; or (4)
23 whatever portion of contributions to such plan were provided by the base
24 period employer, if the services performed for the employer by such
25 individual during the base period, or remuneration received for the
26 services, did not affect the individual's eligibility for, or increased the
27 amount of, such pension, retirement or retired pay, annuity or other similar
28 periodic payment, no reduction in the weekly benefit amount payable to
29 the individual for such week shall be made under this subsection. No
30 reduction shall be made for payments made under the social security act or
31 railroad retirement act of 1974.

32 (o) For any week of unemployment on the basis of services
33 performed in any capacity and under any of the circumstances described in
34 subsection (i), (j) or (k)—~~which~~ *that* an individual performed in an
35 educational institution while in the employ of an educational service
36 agency. For the purposes of this subsection, the term "educational service
37 agency" means a governmental agency or entity which is established and
38 operated exclusively for the purpose of providing such services to one or
39 more educational institutions.

40 (p) For any week of unemployment on the basis of service as a school
41 bus or other motor vehicle driver employed by a private contractor to
42 transport pupils, students and school personnel to or from school-related
43 functions or activities for an educational institution, as defined in K.S.A.

1 44-703(v), and amendments thereto, if such week begins during the period
2 between two successive academic years or during a similar period between
3 two regular terms, whether or not successive, if the individual has a
4 contract or contracts, or a reasonable assurance thereof, to perform
5 services in any such capacity with a private contractor for any educational
6 institution for both such academic years or both such terms. An individual
7 shall not be disqualified for benefits as provided in this subsection for any
8 week of unemployment on the basis of service as a bus or other motor
9 vehicle driver employed by a private contractor to transport persons to or
10 from nonschool-related functions or activities.

11 (q) For any week of unemployment on the basis of services
12 performed by the individual in any capacity and under any of the
13 circumstances described in subsection (i), (j), (k) or (o) which are provided
14 to or on behalf of an educational institution, as defined in K.S.A. 44-
15 703(v), and amendments thereto, while the individual is in the employ of
16 an employer which is a governmental entity, Indian tribe or any employer
17 described in section 501(c)(3) of the federal internal revenue code of 1986
18 which is exempt from income under section 501(a) of the code.

19 (r) For any week in which an individual is registered at and attending
20 an established school, training facility or other educational institution, or is
21 on vacation during or between two successive academic years or terms. An
22 individual shall not be disqualified for benefits as provided in this
23 subsection provided:

24 (1) The individual was engaged in full-time employment concurrent
25 with the individual's school attendance;

26 (2) the individual is attending approved training as defined in K.S.A.
27 44-703(s), and amendments thereto; or

28 (3) the individual is attending evening, weekend or limited day time
29 classes, which would not affect availability for work, and is otherwise
30 eligible under K.S.A. 44-705(c), and amendments thereto.

31 (s) For any week with respect to which an individual is receiving or
32 has received remuneration in the form of a back pay award or settlement.
33 The remuneration shall be allocated to the week or weeks in the manner as
34 specified in the award or agreement, or in the absence of such specificity
35 in the award or agreement, such remuneration shall be allocated to the
36 week or weeks in which such remuneration, in the judgment of the
37 secretary, would have been paid.

38 (1) For any such weeks that an individual receives remuneration in
39 the form of a back pay award or settlement, an overpayment will be
40 established in the amount of unemployment benefits paid and shall be
41 collected from the claimant.

42 (2) If an employer chooses to withhold from a back pay award or
43 settlement, amounts paid to a claimant while they claimed unemployment

1 benefits, such employer shall pay the department the amount withheld.
2 With respect to such amount, the secretary shall have available all of the
3 collection remedies authorized or provided in K.S.A. 44-717, and
4 amendments thereto.

5 (t) (1) Any applicant for or recipient of unemployment benefits who
6 tests positive for unlawful use of a controlled substance or controlled
7 substance analog shall be required to complete a substance abuse treatment
8 program approved by the secretary of labor, secretary of commerce or
9 secretary for children and families, and a job skills program approved by
10 the secretary of labor, secretary of commerce or the secretary for children
11 and families. Subject to applicable federal laws, any applicant for or
12 recipient of unemployment benefits who fails to complete or refuses to
13 participate in the substance abuse treatment program or job skills program
14 as required under this subsection shall be ineligible to receive
15 unemployment benefits until completion of such substance abuse
16 treatment and job skills programs. Upon completion of both substance
17 abuse treatment and job skills programs, such applicant for or recipient of
18 unemployment benefits may be subject to periodic drug screening, as
19 determined by the secretary of labor. Upon a second positive test for
20 unlawful use of a controlled substance or controlled substance analog, an
21 applicant for or recipient of unemployment benefits shall be ordered to
22 complete again a substance abuse treatment program and job skills
23 program, and shall be terminated from unemployment benefits for a period
24 of 12 months, or until such applicant for or recipient of unemployment
25 benefits completes both substance abuse treatment and job skills programs,
26 whichever is later. Upon a third positive test for unlawful use of a
27 controlled substance or controlled substance analog, an applicant for or a
28 recipient of unemployment benefits shall be terminated from receiving
29 unemployment benefits, subject to applicable federal law.

30 (2) Any individual who has been discharged or refused employment
31 for failing a preemployment drug screen required by an employer may
32 request that the drug screening specimen be sent to a different drug testing
33 facility for an additional drug screening. Any such individual who requests
34 an additional drug screening at a different drug testing facility shall be
35 required to pay the cost of drug screening.

36 (u) If the individual was found not to have a disqualifying
37 adjudication or conviction under K.S.A. 39-970 or 65-5117, and
38 amendments thereto, was hired and then was subsequently convicted of a
39 disqualifying felony under K.S.A. 39-970 or 65-5117, and amendments
40 thereto, and discharged pursuant to K.S.A. 39-970 or 65-5117, and
41 amendments thereto. The disqualification shall begin the day following the
42 separation and shall continue until after the individual becomes
43 reemployed and has had earnings from insured work of at least three times

1 the individual's determined weekly benefit amount.

2 (v) Notwithstanding the provisions of any subsection, an individual
3 shall not be disqualified for such week of part-time employment in a
4 substitute capacity for an educational institution if such individual's most
5 recent employment prior to the individual's benefit year begin date was for
6 a non-educational institution and such individual demonstrates application
7 for work in such individual's customary occupation or for work for which
8 the individual is reasonably fitted by training or experience.

9 Sec. 12. K.S.A. 2020 Supp. 44-709 is hereby amended to read as
10 follows: 44-709. (a) *Filing*. Claims for benefits shall be made in
11 accordance with rules and regulations adopted by the secretary. The
12 secretary shall furnish a copy of such rules and regulations to any
13 individual requesting them. Each employer shall: (1) Post and maintain
14 printed statements furnished by the secretary without cost to the employer
15 in places readily accessible to individuals in the service of the employer;
16 and (2) provide any other notification to individuals in the service of the
17 employer as required by the secretary pursuant to the families first
18 coronavirus response act, public law 116-127.

19 (b) *Determination*. (1) Except as otherwise provided in this
20 paragraph, a representative designated by the secretary, and hereinafter
21 referred to as an examiner, shall promptly examine the claim and, on the
22 basis of the facts found by the examiner, shall determine whether or not
23 the claim is valid. If the examiner determines that the claim is valid, the
24 examiner shall determine the first day of the benefit year, the weekly
25 benefit amount and the total amount of benefits payable with respect to the
26 benefit year. If the claim is determined to be valid, the examiner shall send
27 a notice to the last employing unit who shall respond within 10 days by
28 providing the examiner all requested information including all information
29 required for a decision under K.S.A. 44-706, and amendments thereto. The
30 information may be submitted by the employing unit in person at an
31 employment office of the secretary or by mail, by telefacsimile machine or
32 by electronic mail. If the required information is not submitted or
33 postmarked within a response time limit of 10 days after the examiner's
34 notice was sent, the employing unit shall be deemed to have waived its
35 standing as a party to the proceedings arising from the claim and shall be
36 barred from protesting any subsequent decisions about the claim by the
37 secretary, a referee, the employment security board of review or any court,
38 except that the employing unit's response time limit may be waived or
39 extended by the examiner or upon appeal, if timely response was
40 impossible due to excusable neglect. In any case in which the payment or
41 denial of benefits will be determined by the provisions of K.S.A. 44-
42 706(d), and amendments thereto, the examiner shall promptly transmit the
43 claim to a special examiner designated by the secretary to make a

1 determination on the claim after the investigation as the special examiner
2 deems necessary. The parties shall be promptly notified of the special
3 examiner's decision and any party aggrieved by the decision may appeal to
4 the referee as provided in subsection (c). The claimant and the claimant's
5 most recent employing unit shall be promptly notified of the examiner's or
6 special examiner's decision.

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

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

21 (c) *Appeals.* Unless the appeal is withdrawn, a referee, after affording
22 the parties reasonable opportunity for fair hearing, shall affirm or modify
23 the findings of fact and decision of the examiner or special examiner. The
24 parties shall be duly notified of the referee's decision, together with the
25 reasons for the decision. The decision shall be final, notwithstanding the
26 provisions of any other statute, unless a further appeal to the employment
27 security board of review is filed within 16 calendar days after the mailing
28 of the decision to the parties' last known addresses or, if notice is not by
29 mail, within 16 calendar days after the delivery of the decision, except that
30 the time limit for appeal may be waived or extended by the referee or
31 board of review if a timely response was impossible due to excusable
32 neglect.

33 (d) *Referees.* The secretary shall appoint, in accordance with K.S.A.
34 44-714(c), and amendments thereto, one or more referees to hear and
35 decide disputed claims.

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

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

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

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

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

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

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

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

1 Members' compensation and expenses shall be paid from the employment
2 security administration fund.

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

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

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

35 (g) *Procedure.* The manner that disputed claims are presented, the
36 reports on claims required from the claimant and from employers and the
37 conduct of hearings and appeals shall be in accordance with rules of
38 procedure prescribed by the employment security board of review for
39 determining the rights of the parties, whether or not such rules conform to
40 common law or statutory rules of evidence and other technical rules of
41 procedure. A full and complete record shall be kept of all proceedings and
42 decisions in connection with a disputed claim. All testimony at any hearing
43 upon a disputed claim shall be recorded, but need not be transcribed unless

1 the disputed claim is further appealed. In the performance of its official
2 duties, the board *or board panel* shall have access to all of the records that
3 pertain to the disputed claim and are in the custody of the secretary of
4 labor and shall receive the assistance of the secretary upon request.

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

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

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

32 (k) In any proceeding or hearing conducted under this section, a party
33 to the proceeding or hearing may appear before a referee or the
34 employment security board of review *or board panel* either personally or
35 by means of a designated representative to present evidence and to state
36 the position of the party. Hearings may be conducted in person, by
37 telephone or other means of electronic communication. The hearing shall
38 be conducted by telephone or other means of electronic communication if
39 none of the parties requests an in-person hearing. ~~If only one~~ a party
40 requests an in-person hearing, the referee *or board or board panel* shall
41 have the discretion ~~of requiring~~ *to deny the request in the absence of good*
42 *cause shown for the request by the requesting party. If a request for an in-*
43 *person hearing is granted, the referee or board or board panel shall have*

1 *the discretion to require* all parties to appear in person or allow the party
2 not requesting an in-person hearing to appear by telephone or other means
3 of electronic communication. The notice of hearing shall include notice to
4 the parties of their right to request an in-person hearing and instructions on
5 how to make the request.

6 Sec. 13. K.S.A. 2020 Supp. 44-710 is hereby amended to read as
7 follows: 44-710. (a) *Payment*. Contributions shall accrue and become
8 payable by each contributing employer for each calendar year that the
9 contributing employer is subject to the employment security law with
10 respect to wages paid for employment. Such contributions shall become
11 due and be paid by each contributing employer to the secretary for the
12 employment security fund in accordance with such rules and regulations as
13 the secretary may adopt and shall not be deducted, in whole or in part,
14 from the wages of individuals in such employer's employ. In the payment
15 of any contributions, a fractional part of \$.01 shall be disregarded unless it
16 amounts to \$.005 or more, in which case it shall be increased to \$.01.
17 Should contributions for any calendar quarter be less than \$5, no payment
18 shall be required.

19 (b) *Rates and base of contributions*. (1) Except as provided in
20 paragraph (2) ~~of this subsection~~, each contributing employer shall pay
21 contributions on wages paid by the contributing employer during each
22 calendar year with respect to employment as provided in K.S.A. 44-710a,
23 and amendments thereto. Except that, notwithstanding the federal law
24 requiring the secretary of labor to annually recalculate the contribution
25 rate, for calendar years 2010, 2011, 2012, 2013 and 2014, the secretary
26 shall charge each contributing employer in rate groups 1 through 32 the
27 contribution rate in the 2010 original tax rate computation table, with
28 contributing employers in rate groups 33 through 51 being capped at a
29 5.4% contribution rate. For calendar year 2021, unemployment tax rates
30 for eligible employers shall be limited to the standard rate schedule in
31 K.S.A. 44-710a, and amendments thereto. Therefore, no additional
32 solvency adjustment shall be applied.

33 (2) (A) If the congress of the United States either amends or repeals
34 the Wagner-Peyser act, the federal unemployment tax act, the federal
35 social security act, or subtitle C of chapter 23 of the federal internal
36 revenue code of 1986, or any act or acts supplemental to or in lieu thereof,
37 or any part or parts of any such law, or if any such law, or any part or parts
38 thereof, are held invalid with the effect that appropriations of funds by
39 congress and grants thereof to the state of Kansas for the payment of costs
40 of administration of the employment security law are no longer available
41 for such purposes; or (B) if employers in Kansas subject to the payment of
42 tax under the federal unemployment tax act are granted full credit against
43 such tax for contributions or taxes paid to the secretary of labor, then, and

1 in either such case, beginning with the year that the unavailability of
2 federal appropriations and grants for such purpose occurs or that such
3 change in liability for payment of such federal tax occurs and for each year
4 thereafter, the rate of contributions of each contributing employer shall be
5 equal to the total of 0.5% and the rate of contributions as determined for
6 such contributing employer under K.S.A. 44-710a, and amendments
7 thereto. The amount of contributions that each contributing employer
8 becomes liable to pay under this paragraph (2) over the amount of
9 contributions that such contributing employer would be otherwise liable to
10 pay shall be credited to the employment security administration fund to be
11 disbursed and paid out under the same conditions and for the same
12 purposes as other moneys are authorized to be paid from the employment
13 security administration fund, except that, if the secretary determines that as
14 of the first day of January of any year there is an excess in the employment
15 security administration fund over the amount required to be disbursed
16 during such year, an amount equal to such excess as determined by the
17 secretary shall be transferred to the employment security fund.

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

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

42 (B) Where base period wage credits of a contributing employer or
43 rated governmental employer represent part-time employment and the

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

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

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

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

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

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

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

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

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

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

6 *(I) Contributing employers, rated governmental employers and*
7 *reimbursing employers shall be held harmless for and shall not be*
8 *required to reimburse the state for claims or benefits paid that have been*
9 *reported by the employer to the secretary and determined by the secretary*
10 *as fraudulent or as an improper payment, unless the secretary determines*
11 *the claims are not fraudulent or improper as provided by K.S.A. 44-*
12 *710b(b)(2)(A), and amendments thereto. The time limitation for disputing*
13 *a claim or an appeal of a claim as provided by this section, or by any*
14 *other provision of the employment security law, shall not apply to*
15 *identifications of fraud reported to the secretary for claims or benefits*
16 *paid during the period beginning on March 15, 2020, through December*
17 *31, 2022. Contributing employers, rated governmental employers and*
18 *reimbursing employers shall be refunded or credited, in the discretion of*
19 *the employer, as provided by K.S.A. 44-710b, and amendments thereto, for*
20 *any claims or benefits paid that have been reported as fraudulent.*

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

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

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

29 (C) For purposes of this paragraph:

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

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

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

1 accounts.

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

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

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

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

1 such contributions or payments in lieu of contributions or benefit cost
2 payments.

3 (e) *Election to become reimbursing employer; payment in lieu of*
4 *contributions.* (1) Any governmental entity, Indian tribes or tribal units,
5 (subdivisions, subsidiaries or business enterprises wholly owned by such
6 Indian tribes), for which services are performed as described in K.S.A. 44-
7 703(i)(3)(E), and amendments thereto, or any nonprofit organization or
8 group of nonprofit organizations described in section 501(c)(3) of the
9 federal internal revenue code of 1986 that is exempt from income tax
10 under section 501(a) of such code, that becomes subject to the
11 employment security law may elect to become a reimbursing employer
12 under this subsection (e)(1) and agree to pay the secretary for the
13 employment security fund an amount equal to the amount of regular
14 benefits and $\frac{1}{2}$ of the extended benefits paid that are attributable to service
15 in the employ of such reimbursing employer, except that each reimbursing
16 governmental employer, Indian tribes or tribal units shall pay an amount
17 equal to the amount of regular benefits and extended benefits paid for
18 weeks of unemployment beginning after December 31, 1978, for
19 governmental employers and December 21, 2000, for Indian tribes or
20 tribal units to individuals for weeks of unemployment that begin during the
21 effective period of such election.

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

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

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

42 (D) The secretary may for good cause extend the period within which
43 a notice of election, or a notice of termination, must be filed and may

1 permit an election to be retroactive but not any earlier than with respect to
2 benefits paid after January 1 of the year such election is received.

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

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

19 (A) At the end of each calendar quarter, or at the end of any other
20 period as determined by the secretary, the secretary shall bill each
21 reimbursing employer, except the state of Kansas: (i) An amount to be paid
22 that is equal to the full amount of regular benefits plus $\frac{1}{2}$ of the amount of
23 extended benefits paid during such quarter or other prescribed period that
24 is attributable to service in the employ of such reimbursing employer; and
25 (ii) for weeks of unemployment beginning after December 31, 1978, each
26 reimbursing governmental employer and December 21, 2000, for Indian
27 tribes or tribal units shall be certified an amount to be paid that is equal to
28 the full amount of regular benefits and extended benefits paid during such
29 quarter or other prescribed period that is attributable to service in the
30 employ of such reimbursing governmental employer.

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

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

40 (D) The amount due specified in any bill from the secretary shall be
41 conclusive on the reimbursing employer, unless, not later than 15 days
42 after the bill was mailed to the last known address of such employer, or
43 was otherwise delivered to such employer, the reimbursing employer files

1 an application for redetermination in accordance with K.S.A. 44-710b, and
2 amendments thereto.

3 (E) Past due payments of amounts certified by the secretary under
4 this section shall be subject to the same interest, penalties and actions
5 required by K.S.A. 44-717, and amendments thereto. (1) If any nonprofit
6 organization or group of nonprofit organizations described in section
7 501(c)(3) of the federal internal revenue code of 1986 or governmental
8 reimbursing employer is delinquent in making payments of amounts
9 certified by the secretary under this section, the secretary may terminate
10 such employer's election to make payments in lieu of contributions as of
11 the beginning of the next calendar year and such termination shall be
12 effective for such next calendar year and the calendar year thereafter so
13 that the termination is effective for two complete calendar years. (2)
14 Failure of the Indian tribe or tribal unit to make required payments,
15 including assessment of interest and penalty within 90 days of receipt of
16 the bill will cause the Indian tribe to lose the option to make payments in
17 lieu of contributions as described pursuant to paragraph (e)(1) for the
18 following tax year unless payment in full is received before contribution
19 rates for the next tax year are calculated. (3) Any Indian tribe that loses the
20 option to make payments in lieu of contributions due to late payment or
21 nonpayment, as described in paragraph (2), shall have such option
22 reinstated, if after a period of one year, all contributions have been made
23 on time and no contributions, payments in lieu of contributions for benefits
24 paid, penalties or interest remain outstanding.

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

38 (G) In the discretion of the secretary, any employer who elects to
39 become liable for payments in lieu of contributions and any nonprofit
40 organization or group of nonprofit organizations described in section
41 501(c)(3) of the federal internal revenue code of 1986 or governmental
42 reimbursing employer or Indian tribe or tribal unit who is delinquent in
43 filing reports or in making payments of amounts certified by the secretary

1 under this section shall be required within 60 days after the effective date
2 of such election, in the case of an eligible employer so electing, or after the
3 date of notification to the delinquent employer under this subsection (e)(2)
4 (G), in the case of a delinquent employer, to execute and file with the
5 secretary a surety bond, except that the employer may elect, in lieu of a
6 surety bond, to deposit with the secretary money or securities as approved
7 by the secretary or to purchase and deliver to an escrow agent a certificate
8 of deposit to guarantee payment. The amount of the bond, deposit or
9 escrow agreement required by this subsection (e)(2)(G) shall not exceed
10 5.4% of the organization's taxable wages paid for employment by the
11 eligible employer during the four calendar quarters immediately preceding
12 the effective date of the election or the date of notification, in the case of a
13 delinquent employer. If the employer did not pay wages in each of such
14 four calendar quarters, the amount of the bond or deposit shall be as
15 determined by the secretary. Upon the failure of an employer to comply
16 with this subsection (e)(2)(G) within the time limits imposed or to
17 maintain the required bond or deposit, the secretary may terminate the
18 election of such eligible employer or delinquent employer, as the case may
19 be, to make payments in lieu of contributions, and such termination shall
20 be effective for the current and next calendar year.

21 (H) The state of Kansas shall make reimbursement payments
22 quarterly at a fiscal year rate that shall be based upon: (i) The available
23 balance in the state's reimbursing account as of December 31 of each
24 calendar year; (ii) the historical unemployment experience of all covered
25 state agencies during prior years; (iii) the estimate of total covered wages
26 to be paid during the ensuing calendar year; (iv) the applicable fiscal year
27 rate of the claims processing and auditing fee under K.S.A. 75-3798, and
28 amendments thereto; and (v) actuarial and other information furnished to
29 the secretary by the secretary of administration. In accordance with K.S.A.
30 75-3798, and amendments thereto, the claims processing and auditing fees
31 charged to state agencies shall be deducted from the amounts collected for
32 the reimbursement payments under this paragraph (H) prior to making the
33 quarterly reimbursement payments for the state of Kansas. The fiscal year
34 rate shall be expressed as a percentage of covered total wages and shall be
35 the same for all covered state agencies. The fiscal year rate for each fiscal
36 year will be certified in writing by the secretary to the secretary of
37 administration on July 15 of each year and such certified rate shall become
38 effective on the July 1 immediately following the date of certification. A
39 detailed listing of benefit charges applicable to the state's reimbursing
40 account shall be furnished quarterly by the secretary to the secretary of
41 administration and the total amount of charges deducted from previous
42 reimbursing payments made by the state. On January 1 of each year, if it is
43 determined that benefit charges exceed the amount of prior reimbursing

1 payments, an upward adjustment shall be made therefor in the fiscal year
2 rate to be certified on the ensuing July 15. If total payments exceed benefit
3 charges, all or part of the excess may be refunded, at the discretion of the
4 secretary, from the fund or retained in the fund as part of the payments that
5 may be required for the next fiscal year.

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

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

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

42 (4) *Group accounts.* Two or more reimbursing employers may file a
43 joint application to the secretary for the establishment of a group account

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

26 Sec. 14. K.S.A. 2020 Supp. 44-710a is hereby amended to read as
27 follows: 44-710a. (a) *Classification of employers by the secretary*. The
28 term "employer" as used in this section refers to contributing employers.
29 The secretary shall classify employers in accordance with their actual
30 experience in the payment of contributions on their own behalf and with
31 respect to benefits charged against their accounts with a view of fixing
32 such contribution rates as will reflect such experience. If, as of the date
33 such classification of employers is made, the secretary finds that any
34 employing unit has failed to file any report required in connection
35 therewith, or has filed a report which the secretary finds incorrect or
36 insufficient, the secretary shall make an estimate of the information
37 required from such employing unit on the basis of the best evidence
38 reasonably available to the secretary at the time, and notify the employing
39 unit thereof by mail addressed to its last known address. Unless such
40 employing unit shall file the report or a corrected or sufficient report as the
41 case may be, within 15 days after the mailing of such notice, the secretary
42 shall compute such employing unit's rate of contributions on the basis of
43 such estimates, and the rate as so determined shall be subject to increase

1 but not to reduction on the basis of subsequently ascertained information.
2 The secretary shall determine the contribution rate of each employer in
3 accordance with the requirements of this section.

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

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

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

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

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

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

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

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

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

1 sector would become effective the following January 1.

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

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

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

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

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

32 ~~(D) For rate year 2015 and prior rate years, as of each computation~~
33 ~~date, the total of the taxable wages paid during the 12-month period prior~~
34 ~~to the computation date by all employers eligible for rate computation,~~
35 ~~except negative account balance employers, shall be divided into 51~~
36 ~~approximately equal parts designated in column A of schedule I as "rate~~
37 ~~groups," except, with regard to a year in which the taxable wage base~~
38 ~~changes. The taxable wages used in the calculation for such a year and the~~
39 ~~following year shall be an estimate of what the taxable wages would have~~
40 ~~been if the new taxable wage base had been in effect during the entire~~
41 ~~twelve-month period prior to the computation date. The lowest numbered~~
42 ~~of such rate groups shall consist of the employers with the most favorable~~
43 ~~reserve ratios, as defined in this section, whose combined taxable wages~~

1 paid are less than 1.96% of all taxable wages paid by all eligible
 2 employers. Each succeeding higher numbered rate group shall consist of
 3 employers with reserve ratios that are less favorable than those of
 4 employers in the preceding lower numbered rate groups and whose taxable
 5 wages when combined with the taxable wages of employers in all lower
 6 numbered rate groups equal the appropriate percentage of total taxable
 7 wages designated in column B of schedule I. Each eligible employer, other
 8 than a negative account balance employer, shall be assigned an experience
 9 factor designated under column C of schedule I in accordance with the rate
 10 group to which the employer is assigned on the basis of the employer's
 11 reserve ratio and taxable payroll. If an employer's taxable payroll falls into
 12 more than one rate group the employer shall be assigned the experience
 13 factor of the lower numbered rate group. If one or more employers have
 14 reserve ratios identical to that of the last employer included in the next
 15 lower numbered rate group, all such employers shall be assigned the
 16 experience factor designated to such last employer, notwithstanding the
 17 position of their taxable payroll in column B of schedule I.

18 SCHEDULE I—Eligible Employers

19 Column A	Column B	Column C
20 Rate	Cumulative	Experience factor
21 group	taxable payroll	(Ratio to total wages)
22 1	Less than 1.96%	.025%
23 2	1.96% but less than 3.92	.04
24 3	3.92 but less than 5.88	.08
25 4	5.88 but less than 7.84	.12
26 5	7.84 but less than 9.80	.16
27 6	9.80 but less than 11.76	.20
28 7	11.76 but less than 13.72	.24
29 8	13.72 but less than 15.68	.28
30 9	15.68 but less than 17.64	.32
31 10	17.64 but less than 19.60	.36
32 11	19.60 but less than 21.56	.40
33 12	21.56 but less than 23.52	.44
34 13	23.52 but less than 25.48	.48
35 14	25.48 but less than 27.44	.52
36 15	27.44 but less than 29.40	.56
37 16	29.40 but less than 31.36	.60
38 17	31.36 but less than 33.32	.64
39 18	33.32 but less than 35.28	.68
40 19	35.28 but less than 37.24	.72
41 20	37.24 but less than 39.20	.76
42 21	39.20 but less than 41.16	.80
43 22	41.16 but less than 43.12	.84

1	—23	43.12 but less than 45.0888
2	—24	45.08 but less than 47.0492
3	—25	47.04 but less than 49.0096
4	—26	49.00 but less than 50.96	1.00
5	—27	50.96 but less than 52.92	1.04
6	—28	52.92 but less than 54.88	1.08
7	—29	54.88 but less than 56.84	1.12
8	—30	56.84 but less than 58.80	1.16
9	—31	58.80 but less than 60.76	1.20
10	—32	60.76 but less than 62.72	1.24
11	—33	62.72 but less than 64.68	1.28
12	—34	64.68 but less than 66.64	1.32
13	—35	66.64 but less than 68.60	1.36
14	—36	68.60 but less than 70.56	1.40
15	—37	70.56 but less than 72.52	1.44
16	—38	72.52 but less than 74.48	1.48
17	—39	74.48 but less than 76.44	1.52
18	—40	76.44 but less than 78.40	1.56
19	—41	78.40 but less than 80.36	1.60
20	—42	80.36 but less than 82.32	1.64
21	—43	82.32 but less than 84.28	1.68
22	—44	84.28 but less than 86.24	1.72
23	—45	86.24 but less than 88.20	1.76
24	—46	88.20 but less than 90.16	1.80
25	—47	90.16 but less than 92.12	1.84
26	—48	92.12 but less than 94.08	1.88
27	—49	94.08 but less than 96.04	1.92
28	—50	96.04 but less than 98.00	1.96
29	—51	98.00 and over	2.00

30 (E) For rate year 2015 and prior rate years, negative account balance
 31 employers shall, in addition to paying the rate provided for in subsection
 32 (a)(2)(B) of this section, pay a surcharge based on the size of the
 33 employer's negative reserve ratio, the calculation which is provided for in
 34 subsection (a)(2) of this section. The amount of the surcharge shall be
 35 determined from column B2 of schedule II of this section for calendar
 36 years 2012, 2013, 2014 and from column B4 of schedule II of this section
 37 for each calendar year after 2014. Each negative account balance employer
 38 who does not satisfy the requirements to have an average annual payroll,
 39 as defined by K.S.A. 44-703(a)(2), and amendments thereto, shall be
 40 assigned a surcharge of equal to the maximum negative ratio surcharge
 41 from column B2 of schedule II of this section for calendar years 2012,
 42 2013 and 2014. Funds from the surcharge paid according to this subsection
 43 (a)(2)(E), and amendments thereto, shall be used to pay principal and

1 interest due on funds received from the federal unemployment account
2 under title XII of the social security act, (42 U.S.C. §§ 1321 to 1324), in
3 the following manner:

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

15 (ii) For the calendar years 2012, 2013 and 2014, an additional
16 surcharge on negative balance employers with a negative reserve ratio of
17 20.0% and higher shall be designated an interest assessment surcharge and
18 deposited in the employment security interest assessment fund. The
19 additional surcharge shall be used for the purposes of paying interest due
20 and owing on funds received from the federal unemployment account
21 under title XII of the social security act. The total surcharge including the
22 additional surcharge on such employers is listed in schedule II column B3
23 of this section.

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

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

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

1 fund:

2 SCHEDULE II—Surcharge on Negative Accounts

3 Column A	Column B1	Column B2	Column B3	Column B4
4 Negative	Surcharge as a	Surcharge as a	Surcharge as a	Surcharge as a
5 a				
6 Reserve	percent of	percent of	percent of	percent of
7 Ratio	taxable wage	taxable wages	taxable wage	taxable
8 wages				
9 Less than 2.0%	0.20%	0.30%		0.10%
10 2.0% but less than 4.0	0.40	0.50		0.20
11 4.0 but less than 6.0	0.60	0.70		0.30
12 6.0 but less than 8.0	0.80	0.90		0.40
13 8.0 but less than 10.0	1.00	1.10		0.50
14 10.0 but less than 12.0		1.20	1.30	
15	0.60			
16 12.0 but less than 14.0		1.40	1.50	
17	0.70			
18 14.0 but less than 16.0		1.60	1.70	
19	0.80			
20 16.0 but less than 18.0		1.80	1.90	
21	0.90			
22 18.0 but less than 20.0		2.00	2.10	
23	1.00			
24 20.0 but less than 22.0		2.00		2.20
25	1.10			
26 22.0 but less than 24.0		2.00		2.40
27	1.20			
28 24.0 but less than 26.0		2.00		2.60
29	1.30			
30 26.0 but less than 28.0		2.00		2.80
31	1.40			
32 28.0 but less than 30.0		2.00		3.00
33	1.50			
34 30.0 but less than 32.0		2.00		3.20
35	1.60			
36 32.0 but less than 34.0		2.00		3.40
37	1.70			
38 34.0 but less than 36.0		2.00		3.60
39	1.80			
40 36.0 but less than 38.0		2.00		3.80
41	1.90			
42 38.0 and over	2.00		4.00	2.00

43 (D) If the amounts collected from negative account balance

1 *employers and paid into the employment security interest assessment fund*
2 *for the purpose of paying interest due and owing on funds received from*
3 *the federal unemployment account under title XII of the social security act*
4 *are in excess of the amounts needed to pay interest due, the amounts in*
5 *excess shall remain in the employment security interest assessment fund to*
6 *be used to pay interest in future years. Whenever the secretary certifies all*
7 *interest payments have been paid, any excess funds remaining in the*
8 *employment security interest assessment fund shall be transferred to the*
9 *employment security trust fund for the purpose of paying any remaining*
10 *principal amount due for advances described in this section. In the event*
11 *that the amount transferred from the employment security interest*
12 *assessment fund exceeds such remaining amount of principal due, the*
13 *balance shall be used for the purposes of the employment security trust*
14 *fund.*

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

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

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

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

31 ~~(4) *Planned yield.* (A) For rate year 2015 and prior rate years, the~~
32 ~~average required yield shall be determined from schedule III of this~~
33 ~~section, and the planned yield on total wages in column B of schedule III~~
34 ~~shall be determined by the reserve fund ratio in column A of schedule III.~~
35 ~~The reserve fund ratio shall be determined by dividing total assets in the~~
36 ~~employment security fund provided for in K.S.A. 44-712(a), and~~
37 ~~amendments thereto, excluding all moneys credited to the account of this~~
38 ~~state pursuant to section 903 of the federal social security act, as amended,~~
39 ~~which have been appropriated by the state legislature, whether or not~~
40 ~~withdrawn from the trust fund, and excluding contributions not yet paid on~~
41 ~~July 31 by total payrolls for contributing employers for the preceding~~
42 ~~fiscal year which ended June 30.~~

43 (B)(A) For the *each* rate year 2016 and rate years thereafter, the

1 contribution schedule in effect shall be determined by the *applicable* fund
 2 control table and rate schedule table of subsection (a)(4)(~~D~~)(B).

3 SCHEDULE III—Fund Control
 4 Ratios to Total Wages

5 Column A	6 Column B
7 Reserve Fund Ratio	8 Planned Yield
9 4.500 and over	0.00
10 4.475 but less than 4.500	0.01
11 4.450 but less than 4.475	0.02
12 4.425 but less than 4.450	0.03
13 4.400 but less than 4.425	0.04
14 4.375 but less than 4.400	0.05
15 4.350 but less than 4.375	0.06
16 4.325 but less than 4.350	0.07
17 4.300 but less than 4.325	0.08
18 4.275 but less than 4.300	0.09
19 4.250 but less than 4.275	0.10
20 4.225 but less than 4.250	0.11
21 4.200 but less than 4.225	0.12
22 4.175 but less than 4.200	0.13
23 4.150 but less than 4.175	0.14
24 4.125 but less than 4.150	0.15
25 4.100 but less than 4.125	0.16
26 4.075 but less than 4.100	0.17
27 4.050 but less than 4.075	0.18
28 4.025 but less than 4.050	0.19
29 4.000 but less than 4.025	0.20
30 3.950 but less than 4.000	0.21
31 3.900 but less than 3.950	0.22
32 3.850 but less than 3.900	0.23
33 3.800 but less than 3.850	0.24
34 3.750 but less than 3.800	0.25
35 3.700 but less than 3.750	0.26
36 3.650 but less than 3.700	0.27
37 3.600 but less than 3.650	0.28
38 3.550 but less than 3.600	0.29
39 3.500 but less than 3.550	0.30
40 3.450 but less than 3.500	0.31
41 3.400 but less than 3.450	0.32
42 3.350 but less than 3.400	0.33
43 3.300 but less than 3.350	0.34
44 3.250 but less than 3.300	0.35
45 3.200 but less than 3.250	0.36

1	3.150 but less than 3.200.....	0.37
2	3.100 but less than 3.150.....	0.38
3	3.050 but less than 3.100.....	0.39
4	3.000 but less than 3.050.....	0.40
5	2.950 but less than 3.000.....	0.41
6	2.900 but less than 2.950.....	0.42
7	2.850 but less than 2.900.....	0.43
8	2.800 but less than 2.850.....	0.44
9	2.750 but less than 2.800.....	0.45
10	2.700 but less than 2.750.....	0.46
11	2.650 but less than 2.700.....	0.47
12	2.600 but less than 2.650.....	0.48
13	2.550 but less than 2.600.....	0.49
14	2.500 but less than 2.550.....	0.50
15	2.450 but less than 2.500.....	0.51
16	2.400 but less than 2.450.....	0.52
17	2.350 but less than 2.400.....	0.53
18	2.300 but less than 2.350.....	0.54
19	2.250 but less than 2.300.....	0.55
20	2.200 but less than 2.250.....	0.56
21	2.150 but less than 2.200.....	0.57
22	2.100 but less than 2.150.....	0.58
23	2.050 but less than 2.100.....	0.59
24	2.000 but less than 2.050.....	0.60
25	1.975 but less than 2.000.....	0.61
26	1.950 but less than 1.975.....	0.62
27	1.925 but less than 1.950.....	0.63
28	1.900 but less than 1.925.....	0.64
29	1.875 but less than 1.900.....	0.65
30	1.850 but less than 1.875.....	0.66
31	1.825 but less than 1.850.....	0.67
32	1.800 but less than 1.825.....	0.68
33	1.775 but less than 1.800.....	0.69
34	1.750 but less than 1.775.....	0.70
35	1.725 but less than 1.750.....	0.71
36	1.700 but less than 1.725.....	0.72
37	1.675 but less than 1.700.....	0.73
38	1.650 but less than 1.675.....	0.74
39	1.625 but less than 1.650.....	0.75
40	1.600 but less than 1.625.....	0.76
41	1.575 but less than 1.600.....	0.77
42	1.550 but less than 1.575.....	0.78
43	1.525 but less than 1.550.....	0.79

1	1.500 but less than 1.525.....	0.80
2	1.475 but less than 1.500.....	0.81
3	1.450 but less than 1.475.....	0.82
4	1.425 but less than 1.450.....	0.83
5	1.400 but less than 1.425.....	0.84
6	1.375 but less than 1.400.....	0.85
7	1.350 but less than 1.375.....	0.86
8	1.325 but less than 1.350.....	0.87
9	1.300 but less than 1.325.....	0.88
10	1.275 but less than 1.300.....	0.89
11	1.250 but less than 1.275.....	0.90
12	1.225 but less than 1.250.....	0.91
13	1.200 but less than 1.225.....	0.92
14	1.175 but less than 1.200.....	0.93
15	1.150 but less than 1.175.....	0.94
16	1.125 but less than 1.150.....	0.95
17	1.100 but less than 1.125.....	0.96
18	1.075 but less than 1.100.....	0.97
19	1.050 but less than 1.075.....	0.98
20	1.025 but less than 1.050.....	0.99
21	1.000 but less than 1.025.....	1.00
22	0.900 but less than 1.000.....	1.01
23	0.800 but less than 0.900.....	1.02
24	0.700 but less than 0.800.....	1.03
25	0.600 but less than 0.700.....	1.04
26	0.500 but less than 0.600.....	1.05
27	0.400 but less than 0.500.....	1.06
28	0.300 but less than 0.400.....	1.07
29	0.200 but less than 0.300.....	1.08
30	0.100 but less than 0.200.....	1.09
31	Less than 0.100%.....	1.10

32 (C) *Adjustment to taxable wages.* For rate year 2015 and prior rate
 33 years, the planned yield as a percent of total wages, as determined in this
 34 subsection (a)(4), shall be adjusted to taxable wages by multiplying by the
 35 ratio of total wages to taxable wages for all contributing employers for the
 36 preceding fiscal year ending June 30, except, with regard to a year in
 37 which the taxable wage base changes. The taxable wages used in the
 38 calculation for such a year and the following year shall be an estimate of
 39 what the taxable wages would have been if the new taxable wage base had
 40 been in effect during all of the preceding fiscal year ending June 30.

41 (D)(B) *Effective rates.* (i) For rate year 2016 and ensuing rate years,
 42 Employer contribution rates to be effective for the ensuing each calendar
 43 year shall be determined by the applicable rate schedule in clause (ii) and

1 *the fund control table for the rate year as specified* contained in this
 2 ~~section clause~~. The average high cost multiple of the trust fund as of the
 3 computation date shall determine the contribution schedule in effect for the
 4 next rate year. For purposes of subsection (a)(4)~~(D)~~(B)(i) ~~and (v)~~, the
 5 average high cost multiple is the reserve fund ratio, ~~as defined by~~
 6 ~~subsection (a)(4)(A)~~, divided by the average high benefit cost rate. The
 7 average high benefit cost rate shall be determined by averaging the three
 8 highest benefit cost rates over the last 20 years from the preceding fiscal
 9 year which ended June 30. The high benefit cost rate is defined by dividing
 10 total benefits paid in the fiscal year by total payrolls for covered employers
 11 in the fiscal year. *The reserve fund ratio shall be determined by dividing*
 12 *total assets in the employment security fund provided for in K.S.A. 44-*
 13 *712(a), and amendments thereto, excluding all moneys credited to the*
 14 *account of this state pursuant to section 903 of the federal social security*
 15 *act, as amended, that have been appropriated by the legislature, whether*
 16 *or not withdrawn from the trust fund, and excluding contributions not yet*
 17 *paid on July 31, by total payrolls for contributing employers for the*
 18 *preceding fiscal year that ended on June 30.*

19 Fund Control Table A
 20 For Rate Years 2016-2021

21 Lower AHCM	22 Upper AHCM	23 Solvency Adjustment
24 Threshold	25 Threshold	26 to Standard Rate per
		27 Standard Rate Schedule
28 1,000.00000 1,000.00000	0.19999	1.60%
29 0.20000	0.44999	1.40%
0.45000	0.59999	1.20%
0.60000	0.74999	1.00%
0.75000	1.14999	0.00%
1.15000	1,000.00000 1,000.00000	-0.50%

30 Fund Control Table B

31 For Rate Year 2022 and Ensuing Calendar Years

32 KS SUTA	33 Lower	34 Upper	35 Solvency/Credit	36 Solvency/Credit	37 Solvency/Credit
38 Tax Rate	39 AHCM	40 AHCM	41 Adjustment to	42 Adjustment as a	43 Adjustment as a
44 Schedules	45 Threshold	46 Threshold	47 Maximum	48 Rate Group	49 Total % to
			50 Standard Rate	51 Multiplier to	52 Employer's
				53 Standard, Earned	54 Standard, Earned
				55 Rate Group	56 Rate Group
57 1	1,000.00000	0.00001	2.00%	0.05263%	26.32%
58 2	0.00000	0.24999	1.80%	0.04737%	23.68%
59 Solvency	3 0.25000	0.44999	1.60%	0.04211%	21.05%
60 Schedules	4 0.45000	0.59999	1.40%	0.03684%	18.42%
61 (1-6)	5 0.60000	0.69999	1.20%	0.03158%	15.79%
62	6 0.70000	0.74999	1.00%	0.02632%	13.16%
63 Standard					
64 Schedule	7 0.75000	1.24999	0.00%	0.00000%	0.00%
65 (7)					
66 8	1.25000	1.29999	1.00%	0.02632%	13.16%
67 Credit	9 1.30000	1.39999	1.20%	0.03158%	15.79%

1	<i>Schedules 10</i>	<i>1.40000</i>	<i>1.54999</i>	<i>1.40%</i>	<i>0.03684%</i>	<i>18.42%</i>
2	<i>(8-13) 11</i>	<i>1.55000</i>	<i>1.74999</i>	<i>1.60%</i>	<i>0.04211%</i>	<i>21.05%</i>
3	<i>12</i>	<i>1.75000</i>	<i>1.99999</i>	<i>1.80%</i>	<i>0.04737%</i>	<i>23.68%</i>
4	<i>13</i>	<i>2.00000</i>	<i>1,000.00000</i>	<i>2.00%</i>	<i>0.05263%</i>	<i>26.32%</i>

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

15 (b) *In the event the full transfer of ~~\$450,000,000~~ {\$250,000,000} is*
 16 *not made as provided in section 6, and amendments thereto, to the*
 17 *employment security fund on or before July 15, 2021, all contributing*
 18 *employers shall pay the rate as set forth in standard rate schedule -*
 19 *standard rate schedule 7 for the 2022 calendar year.*

20 ***{(c) In the event the second transfer of up to \$250,000,000 is not***
 21 ***made as provided in section 6, and amendments thereto, the employment***
 22 ***security fund on or before July 15, 2022, all contributing employers***
 23 ***shall pay the rate as set forth in standard rate schedules - standard rate***
 24 ***schedule 7 for the 2023 calendar year.***

25 STANDARD RATE SCHEDULE -
 26 STANDARD RATE SCHEDULE 7

27	Rate Lower Reserve	Upper Reserve	Standard	
28	Group	Ratio Limit	Ratio Limit	Rate
29	1	18.590	1,000,000.000	0.20%
30	2	17.875	18.589	0.40%
31	3	17.160	17.874	0.60%
32	4	16.445	17.159	0.80%
33	5	15.730	16.444	1.00%
34	6	15.015	15.729	1.20%
35	7	14.300	15.014	1.40%
36	8	13.585	14.299	1.60%
37	9	12.870	13.584	1.80%
38	10	12.155	12.869	2.00%
39	11	11.440	12.154	2.20%
40	12	10.725	11.439	2.40%
41	13	10.010	10.724	2.60%
42	14	9.295	10.009	2.80%
43	15	8.580	9.294	3.00%
44	16	7.865	8.579	3.20%

1	17	7.150	7.864	3.40%
2	18	6.435	7.149	3.60%
3	19	5.720	6.434	3.80%
4	20	5.005	5.719	4.00%
5	21	4.290	5.004	4.20%
6	22	3.575	4.289	4.40%
7	23	2.860	3.574	4.60%
8	24	2.145	2.859	4.80%
9	25	1.430	2.144	5.00%
10	26	0.715	1.429	5.20%
11	27	0.000	0.714	5.40%
12	N1	-0.714	-0.001	5.60%
13	N2	-1.429	-0.715	5.80%
14	N3	-2.144	-1.430	6.00%
15	N4	-2.859	-2.145	6.20%
16	N5	-3.574	-2.860	6.40%
17	N6	-4.289	-3.575	6.60%
18	N7	-5.004	-4.290	6.80%
19	N8	-5.719	-5.005	7.00%
20	N9	-6.434	-5.720	7.20%
21	N10	-7.149	-6.435	7.40%
22	N11	-1,000,000.000	-7.150	7.60%

23 ~~(iii) For all rate years prior to 2016, except with regard to rates for~~
 24 ~~negative account balance employers, employer contribution rates to be~~
 25 ~~effective for the ensuing calendar year shall be computed by adjusting~~
 26 ~~proportionately the experience factors from schedule I of this section to the~~
 27 ~~required yield on taxable wages. For the purposes of this subsection (a)(4),~~
 28 ~~all rates computed shall be rounded to the nearest .01% and for calendar~~
 29 ~~year 1983 and ensuing calendar years, the maximum effective contribution~~
 30 ~~rate shall not exceed 5.4%.~~

31 ~~(iv) For rate years 2007 through 2015, employers who are current in~~
 32 ~~filing quarterly wage reports and in payment of all contributions due and~~
 33 ~~owing, shall be issued a contribution rate based upon the following~~
 34 ~~reduction: For rate groups 1 through 5, the rates would be reduced to~~
 35 ~~0.00%; for rate groups 6 through 28, the rates would be reduced by 50%;~~
 36 ~~for rate groups 29 through 51, the rates would be reduced by 40%.~~

37 ~~(v) For rate year 2014 and rate years thereafter, an eligible employer~~
 38 ~~other than a negative account balance employer, who has filed all reports~~
 39 ~~due and paid all contributions due and owing on or before January 31 of~~
 40 ~~the applicable year is entitled to a rate discount of 15% except as provided~~
 41 ~~in this subsection. For rate year 2015 and rate years thereafter, an eligible~~
 42 ~~employer other than a negative account balance employer, who has filed~~
 43 ~~all reports due and paid all contributions due and owing on or before~~

1 January 31 of the applicable year is entitled to a rate discount of 25%
 2 except as provided in this subsection. This discount shall not be in effect if
 3 other reduced rates pursuant to subsections (a)(4)(D)(i) through (iv) are in
 4 effect. This discount shall not be available for a rate year if the average
 5 high cost multiple, as defined in subsection (a)(4)(D)(i), of the
 6 employment security trust fund balance falls below 1.0 as of the
 7 computation date of that year's rates, and this discount shall thereafter
 8 cease to be in effect for all subsequent rate years.

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

10 <i>Group</i>	1	2	3	4	5	6
11 1	0.252632%	0.247375%	0.24211%	0.23684%	0.23158%	0.22632%
12 2	0.505263%	0.49474%	0.48421%	0.47368%	0.46316%	0.45263%
13 3	0.757895%	0.74211%	0.72632%	0.71053%	0.69474%	0.67895%
14 4	1.010526%	0.98947%	0.96842%	0.94737%	0.92632%	0.90526%
15 5	1.263158%	1.23684%	1.21053%	1.18421%	1.15789%	1.13158%
16 6	1.515789%	1.48421%	1.45263%	1.42105%	1.38947%	1.35789%
17 7	1.768421%	1.73158%	1.69474%	1.65789%	1.62105%	1.58421%
18 8	2.021053%	1.97895%	1.93684%	1.89474%	1.85263%	1.81053%
19 9	2.273684%	2.22632%	2.17895%	2.13158%	2.08421%	2.03684%
20 10	2.526316%	2.47368%	2.42105%	2.36842%	2.31579%	2.26316%
21 11	2.778947%	2.72105%	2.66316%	2.60526%	2.54737%	2.48947%
22 12	3.031579%	2.96842%	2.90526%	2.84211%	2.77895%	2.71579%
23 13	3.284211%	3.21579%	3.14737%	3.07895%	3.01053%	2.94211%
24 14	3.536842%	3.46316%	3.38947%	3.31579%	3.24211%	3.16842%
25 15	3.789474%	3.71053%	3.63158%	3.55263%	3.47368%	3.39474%
26 16	4.042105%	3.95789%	3.87368%	3.78947%	3.70526%	3.62105%
27 17	4.294737%	4.20526%	4.11579%	4.02632%	3.93684%	3.84737%
28 18	4.547368%	4.45263%	4.35789%	4.26316%	4.16842%	4.07368%
29 19	4.800000%	4.70000%	4.60000%	4.50000%	4.40000%	4.30000%
30 20	5.052632%	4.94737%	4.84211%	4.73684%	4.63158%	4.52632%
31 21	5.305263%	5.19474%	5.08421%	4.97368%	4.86316%	4.75263%
32 22	5.557895%	5.44211%	5.32632%	5.21053%	5.09474%	4.97895%
33 23	5.810526%	5.68947%	5.56842%	5.44737%	5.32632%	5.20526%
34 24	6.063158%	5.93684%	5.81053%	5.68421%	5.55789%	5.43158%
35 25	6.315789%	6.18421%	6.05263%	5.92105%	5.78947%	5.65789%
36 26	6.568421%	6.43158%	6.29474%	6.15789%	6.02105%	5.88421%
37 27	6.821053%	6.67895%	6.53684%	6.39474%	6.25263%	6.11053%
38 N1	7.073684%	6.92632%	6.77895%	6.63158%	6.48421%	6.33684%
39 N2	7.326316%	7.17368%	7.02105%	6.86842%	6.71579%	6.56316%
40 N3	7.578947%	7.42105%	7.26316%	7.10526%	6.94737%	6.78947%
41 N4	7.831579%	7.66842%	7.50526%	7.34211%	7.17895%	7.01579%
42 N5	8.084211%	7.91579%	7.74737%	7.57895%	7.41053%	7.24211%
43 N6	8.336842%	8.16316%	7.98947%	7.81579%	7.64211%	7.46842%

1	<i>N</i> 78.589474%	8.41053%	8.23158%	8.05263%	7.87368%	7.69474%	
2	<i>N</i> 88.842105%	8.65789%	8.47368%	8.28947%	8.10526%	7.92105%	
3	<i>N</i> 99.094737%	8.90526%	8.71579%	8.52632%	8.33684%	8.14737%	
4	<i>N</i> 109.347368%	9.15263%	8.95789%	8.76316%	8.56842%	8.37368%	
5	<i>N</i> 119.600000%	9.40000%	9.20000%	9.00000%	8.80000%	8.60000%	
6	<i>Rate</i>	<i>CREDIT RATE SCHEDULES (8-13)</i>					
7	<i>Group</i>	8	9	10	11	12	13
8	1	0.173684%	0.16842%	0.16316%	0.15789%	0.15263%	0.14737%
9	2	0.347368%	0.33684%	0.32632%	0.31579%	0.30526%	0.29474%
10	3	0.521053%	0.50526%	0.48947%	0.47368%	0.45789%	0.44211%
11	4	0.694737%	0.67368%	0.65263%	0.63158%	0.61053%	0.58947%
12	5	0.868421%	0.84211%	0.81579%	0.78947%	0.76316%	0.73684%
13	6	1.042105%	1.01053%	0.97895%	0.94737%	0.91579%	0.88421%
14	7	1.215789%	1.17895%	1.14211%	1.10526%	1.06842%	1.03158%
15	8	1.389474%	1.34737%	1.30526%	1.26316%	1.22105%	1.17895%
16	9	1.563158%	1.51579%	1.46842%	1.42105%	1.37368%	1.32632%
17	10	1.736842%	1.68421%	1.63158%	1.57895%	1.52632%	1.47368%
18	11	1.910526%	1.85263%	1.79474%	1.73684%	1.67895%	1.62105%
19	12	2.084211%	2.02105%	1.95789%	1.89474%	1.83158%	1.76842%
20	13	2.257895%	2.18947%	2.12105%	2.05263%	1.98421%	1.91579%
21	14	2.431579%	2.35789%	2.28421%	2.21053%	2.13684%	2.06316%
22	15	2.605263%	2.52632%	2.44737%	2.36842%	2.28947%	2.21053%
23	16	2.778947%	2.69474%	2.61053%	2.52632%	2.44211%	2.35789%
24	17	2.952632%	2.86316%	2.77368%	2.68421%	2.59474%	2.50526%
25	18	3.126316%	3.03158%	2.93684%	2.84211%	2.74737%	2.65263%
26	19	3.300000%	3.20000%	3.10000%	3.00000%	2.90000%	2.80000%
27	20	3.473684%	3.36842%	3.26316%	3.15789%	3.05263%	2.94737%
28	21	3.647368%	3.53684%	3.42632%	3.31579%	3.20526%	3.09474%
29	22	3.821053%	3.70526%	3.58947%	3.47368%	3.35789%	3.24211%
30	23	3.994737%	3.87368%	3.75263%	3.63158%	3.51053%	3.38947%
31	24	4.168421%	4.04211%	3.91579%	3.78947%	3.66316%	3.53684%
32	25	4.342105%	4.21053%	4.07895%	3.94737%	3.81579%	3.68421%
33	26	4.515789%	4.37895%	4.24211%	4.10526%	3.96842%	3.83158%
34	27	4.689474%	4.54737%	4.40526%	4.26316%	4.12105%	3.97895%
35	<i>N</i> 14.863158%	4.71579%	4.56842%	4.42105%	4.27368%	4.12632%	
36	<i>N</i> 25.036842%	4.88421%	4.73158%	4.57895%	4.42632%	4.27368%	
37	<i>N</i> 35.210526%	5.05263%	4.89474%	4.73684%	4.57895%	4.42105%	
38	<i>N</i> 45.384211%	5.22105%	5.05789%	4.89474%	4.73158%	4.56842%	
39	<i>N</i> 55.557895%	5.38947%	5.22105%	5.05263%	4.88421%	4.71579%	
40	<i>N</i> 65.731579%	5.55789%	5.38421%	5.21053%	5.03684%	4.86316%	
41	<i>N</i> 75.905263%	5.72632%	5.54737%	5.36842%	5.18947%	5.01053%	
42	<i>N</i> 86.078947%	5.89474%	5.71053%	5.52632%	5.34211%	5.15789%	
43	<i>N</i> 96.252632%	6.06316%	5.87368%	5.68421%	5.49474%	5.30526%	

1 *N106.426316% 6.23158% 6.03684% 5.84211% 5.64737% 5.45263%*
 2 *N116.600000% 6.40000% 6.20000% 6.00000% 5.80000% 5.60000%*

3 (b) *Successor classification.* (1) (A) For the purposes of this
 4 subsection—~~(b)~~, whenever an employing unit, whether or not it is an
 5 "employing unit" within the meaning of of K.S.A. 44-703(g), and
 6 amendments thereto, becomes an employer pursuant to K.S.A. 44-703(h)
 7 (4), and amendments thereto, or is an employer at the time of acquisition
 8 and meets the definition of a "successor employer" as defined by K.S.A.
 9 44-703(dd), and amendments thereto, and thereafter transfers its trade or
 10 business, or any portion thereof, to another employer and, at the time of
 11 the transfer, there is substantially common ownership, management or
 12 control of the two employers, then the unemployment experience
 13 attributable to the transferred trade or business shall be transferred to the
 14 employer to whom such business is so transferred. These experience
 15 factors consist of all contributions paid, benefit experience and annual
 16 payrolls of the predecessor employer. The transfer of some or all of an
 17 employer's workforce to another employer shall be considered a transfer of
 18 trade or business when, as the result of such transfer, the transferring
 19 employer no longer performs trade or business with respect to the
 20 transferred workforce, and such trade or business is performed by the
 21 employer to whom the workforce is transferred.

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

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

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

1 will not tend to defeat or obstruct the object and purposes of this act.

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

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

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

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

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

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

1 rate of contribution shall be that of a "new employer" as described in
2 subsection (a)(1).

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

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

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

26 (e) There is hereby established in the state treasury, separate and apart
27 from all public moneys or funds of this state, an employment security
28 interest assessment fund, which shall be administered by the secretary as
29 provided in this act. Moneys in the employment security fund established
30 by K.S.A. 44-712, and amendments thereto, and employment security
31 interest assessment fund established by K.S.A. 44-710, and amendments
32 thereto, shall not be invested in the pooled money investment portfolio
33 established under K.S.A. 75-4234, and amendments thereto.
34 Notwithstanding the provisions of K.S.A. 44-712(a), K.S.A. 44-716,
35 K.S.A. 44-717 and K.S.A. 75-4234, and amendments thereto, or any like
36 provision the secretary shall remit all moneys received from employers
37 pursuant to the interest payment assessment established in subsection (a)
38 ~~(2)(E)~~ pursuant to law, to the state treasurer in accordance with the
39 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
40 each such remittance, the state treasurer shall deposit the entire amount in
41 the employment security interest assessment fund. All moneys in this fund
42 which are received from employers pursuant to the interest payment
43 ~~assessment established in subsection (a)(2)(E); assessments shall be~~

1 expended solely for the purposes and in the amounts found by the
2 secretary necessary to pay any principal and interest due and owing the
3 United States department of labor resulting from any advancements made
4 to the Kansas employment security fund pursuant to the provisions of title
5 XII of the social security act (42 U.S.C. §§ 1321 to 1324) except as may
6 be otherwise provided under subsection—~~(a)(2)(E)~~ (a)(2)(D).
7 Notwithstanding any provision of this section, all moneys received and
8 credited to this fund ~~pursuant to subsection (a)(2)(E)~~; shall remain part of
9 the employment security interest assessment fund and shall be used only in
10 accordance with the conditions specified ~~in subsection (a)(2)(E)~~.

11 (f) The secretary of labor shall annually prepare and submit a
12 certification as to the solvency and adequacy of the amount credited to the
13 state of Kansas' account in the federal employment security trust fund to
14 the governor and the legislative coordinating council. The certification
15 shall be submitted on or before December 1 of each calendar year and
16 shall be for the 12-month period ending on June 30 of that calendar year.
17 In arriving at the certification contributions paid on or before July 31
18 following the 12-month period ending date of June 30 shall be considered.
19 ~~Each certification shall be used to determine the need for any adjustment~~
20 ~~to schedule III in subsection (a)(4)(B) and to assist in preparing legislation~~
21 ~~to accomplish any such adjustment.~~

22 Sec. 15. K.S.A. 2020 Supp. 44-710b is hereby amended to read as
23 follows: 44-710b. (a) *By the secretary of labor.* The secretary of labor shall
24 promptly notify each contributing employer of its rate of contributions,
25 each rated governmental employer of its benefit cost rate and each
26 reimbursing employer of its benefit liability as determined for any
27 calendar year pursuant to K.S.A. 44-710 and 44-710a, and amendments
28 thereto, on or before November 30 of the calendar year immediately
29 preceding the calendar year in which such rate takes effect. Such
30 determination shall become conclusive and binding upon the employer
31 unless, within 15 days after the mailing of notice thereof to the employer's
32 last known address or in the absence of mailing, within 15 days after the
33 delivery of such notice, the employer files an application for review and
34 redetermination, setting forth the reasons therefor. If the secretary of labor
35 grants such review, the employer shall be promptly notified thereof and
36 shall be granted an opportunity for a fair hearing, but no employer shall
37 have standing, in any proceeding involving the employer's rate of
38 contributions or benefit liability, to contest the chargeability to the
39 employer's account of any benefits paid in accordance with a
40 determination, redetermination or decision pursuant to ~~subsection (c)~~ of
41 K.S.A. 44-710(c), and amendments thereto, except upon the ground that
42 the services on the basis of which such benefits were found to be
43 chargeable did not constitute services performed in employment for the

1 employer and only in the event that the employer was not a party to such
2 determination, redetermination or decision or to any other proceedings
3 under this act in which the character of such services was determined. Any
4 such hearing conducted pursuant to this section shall be heard in the
5 county where the contributing employer maintains its principle place of
6 business. The hearing officer shall render a decision concerning all matters
7 at issue in the hearing within 90 days.

8 (b) (1) *The secretary shall, without necessity of a request by an*
9 *employer or a hearing, immediately and fully credit any contributing*
10 *employer's, governmental rated employer's or reimbursing employer's*
11 *account for any benefits paid upon a determination by the secretary that*
12 *such benefits were paid to any person who received such benefits: (A) By*
13 *fraud; or (B) in error where any conditions imposed by this act for the*
14 *receipt of benefits were not fulfilled or where the recipient was not*
15 *qualified to or disqualified from receiving such benefits.*

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

27 (B) *Reimbursing employers shall be refunded for reimbursements*
28 *made to the state for any claims or benefits paid on or after March 15,*
29 *2020, that are or have been reported to the secretary and determined by*
30 *the secretary as fraudulent. Amounts refunded shall become due, subject*
31 *to appeal as provided by the employment security law, upon a*
32 *determination by the secretary, as provided by subparagraph (A), that the*
33 *benefits were paid properly and not by fraud or in error.*

34 (C) *For the time period of March 15, 2020, through December 31,*
35 *2022, identifications of fraud reported to the secretary pursuant to*
36 *subparagraphs (A) and (B) shall not be subject to any time limitation for*
37 *disputing a claim or for appeal pursuant to K.S.A. 44-710, and*
38 *amendments thereto, or pursuant to any other provision of the employment*
39 *security law.*

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

1 *recovery efforts.*

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

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

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

34 (f) *Any federal unemployment insurance benefit program established*
35 *as a result of COVID-19 or any pandemic shall not be continued after the*
36 *ending date of the federal program through the use of Kansas state*
37 *unemployment insurance fund contributions made by Kansas employers.*

38 Sec. 16. K.S.A. 2020 Supp. 44-714 is hereby amended to read as
39 follows: 44-714. (a) *Duties and powers of secretary.* It shall be the duty of
40 the secretary to administer this act and the secretary shall have power and
41 authority to adopt, amend or revoke such rules and regulations, to employ
42 such persons, make such expenditures, require such reports, make such
43 investigations, and take such other action as the secretary deems necessary

1 or suitable to that end. Such rules and regulations may be adopted,
2 amended, or revoked by the secretary only after public hearing or
3 opportunity to be heard thereon. The secretary shall determine the
4 organization and methods of procedure in accordance with the provisions
5 of this act, and shall have an official seal which shall be judicially noticed.
6 The secretary shall make and submit reports for the administration of the
7 employment security law in the manner prescribed by K.S.A. 75-3044-~~to~~
8 *through* 75-3046, ~~inclusive~~, and 75-3048, and amendments thereto.
9 Whenever the secretary believes that a change in contribution or benefit
10 rates will become necessary to protect the solvency of the fund, the
11 secretary shall promptly so inform the governor and the legislature, and
12 make recommendations with respect thereto.

13 (b) *Publication.* The secretary shall cause to be printed for
14 distribution to the public the text of this act, the secretary's rules and
15 regulations and any other material the secretary deems relevant and
16 suitable and shall furnish the same to any person upon application therefor.

17 (c) *Personnel.* Subject to other provisions of this act, the secretary is
18 authorized to appoint, fix the compensation, and prescribe the duties and
19 powers of such officers, accountants, deputies, attorneys, experts and other
20 persons as may be necessary in carrying out the provisions of this act. The
21 secretary may delegate to any such person so appointed such power and
22 authority as the secretary deems reasonable and proper for the effective
23 administration of this act, and may in the secretary's discretion bond any
24 person handling moneys or signing checks under the employment security
25 law.

26 (d) *Employment stabilization.* The secretary, with the advice and aid
27 of the appropriate divisions of the department of labor, shall: (1) Take all
28 appropriate steps to reduce and prevent unemployment; ~~to~~ (2) encourage
29 and assist in the adoption of practical methods of vocational training,
30 retraining and vocational guidance; ~~to~~ (3) investigate, recommend, advise,
31 and assist in the establishment and operation, by municipalities, counties,
32 school districts and the state, of reserves for public works to be used in
33 time of business depression and unemployment; ~~to~~ (4) promote the
34 reemployment of unemployed workers throughout the state in every other
35 way that may be feasible; and (5) to these ends ~~to~~ carry on and publish the
36 results of investigations and research studies.

37 (e) *Records and reports.* Each employing unit shall keep true and
38 accurate work records, containing such information as the secretary may
39 prescribe. Such records shall be open to inspection and subject to being
40 copied by the secretary or the secretary's authorized representatives at any
41 reasonable time and shall be preserved for a period of five years from the
42 due date of the contributions or payments in lieu of contributions for the
43 period to which they relate. Only one audit shall be made of any

1 employer's records for any given period of time. Upon request the
2 employing unit shall be furnished a copy of all findings by the secretary or
3 the secretary's authorized representatives, resulting from such audit. A
4 special inquiry or special examination made for a specific and limited
5 purpose shall not be considered to be an audit for the purpose of this
6 subsection. The secretary may require from any employing unit any sworn
7 or unsworn reports, with respect to persons employed by it, which the
8 secretary deems necessary for the effective administration of this act.
9 Information thus obtained or obtained from any individual pursuant to the
10 administration of this act shall be held confidential, except to the extent
11 necessary for the proper presentation of a claim by an employer or
12 employee under the employment security law, and shall not be published
13 or be open to public inspection, other than to public officials or the agents
14 or contractors of a public official in the performance of their official
15 duties, in any manner revealing the individual's or employing unit's
16 identity. The secretary may publish or otherwise disclose appeals records
17 and decisions, and precedential determinations on coverage of employers,
18 employment and wages, provided all social security numbers have been
19 removed. Any claimant or employing unit or their representatives at a
20 hearing before an appeal tribunal or the secretary shall be supplied with
21 information from such records to the extent necessary for the proper
22 presentation of the claim. The transcript made at any such benefits hearing
23 shall not be discoverable or admissible in evidence in any other
24 proceeding, hearing or determination of any kind or nature. In the event of
25 any appeal of a benefits matter, the transcript shall be sealed by the hearing
26 officer and shall be available only to any reviewing authority who shall
27 reseal the transcript after making a review of it. In no event shall such
28 transcript be deemed a public record. Nothing in this subsection shall be
29 construed to prohibit disclosure of any information obtained under the
30 employment security law, including hearing transcripts, upon request of
31 either of the parties, for the purpose of administering or adjudicating a
32 claim for benefits under the provisions of any other state program, except
33 that any party receiving such information shall be prohibited from further
34 disclosure and shall be subject to the same duty of confidentiality
35 otherwise imposed by this subsection and shall be subject to the penalties
36 imposed by this subsection for violations of such duty of confidentiality.
37 Nothing in this subsection shall be construed to prohibit disclosure of any
38 information obtained under the employment security law, including
39 hearing transcripts, for use as evidence in a criminal investigation or in
40 open court in a criminal prosecution or at an appeal hearing under the
41 employment security law. Nothing in this subsection shall be construed to
42 prohibit disclosure of any information obtained under the employment
43 security law, including hearing transcripts to an agent or contractor of a

1 public official to whom disclosure is permissible under the employment
2 security law, except that any party receiving such information shall be
3 prohibited from further disclosure, except for use in the performance of
4 such party's official duties, and shall be subject to the same duty of
5 confidentiality otherwise imposed by this subsection and shall be subject
6 to the penalties imposed by this subsection for violations of such duty of
7 confidentiality. Any individual who violates any provisions of this
8 subsection, shall be fined not less than \$20 nor more than \$200 or
9 imprisoned for not longer than 90 days, or both. Original records of the
10 agency and original paid benefit warrants of the state treasurer may be
11 made available to the employment security agency of any other state or the
12 federal government to be used as evidence in prosecution of violations of
13 the employment security law of such state or federal government.
14 Photostatic copies of such records shall be made and where possible shall
15 be substituted for original records introduced in evidence and the originals
16 returned to the agency. *Nothing in this subsection shall be construed to*
17 *prohibit disclosure otherwise permissible under 20 C.F.R. part 603.5.*

18 (f) *Oaths and witnesses.* In the discharge of the duties imposed by the
19 employment security law, the chairperson of an appeal tribunal, an appeals
20 referee, the secretary or any duly authorized representative of the secretary
21 shall have power to administer oaths and affirmations, take depositions,
22 issue interrogatories, certify to official acts, and issue subpoenas to compel
23 the attendance of witnesses and the production of books, papers,
24 correspondence, memoranda and other records deemed necessary as
25 evidence in connection with a disputed claim or the administration of the
26 employment security law.

27 (g) *Subpoenas, service.* Upon request, service of subpoenas shall be
28 made by the sheriff of a county within that county, by the sheriff's deputy,
29 by any other person who is not a party and is not less than 18 years of age
30 or by some person specially appointed for that purpose by the secretary of
31 labor or the secretary's designee. A person not a party as described above
32 or a person specially appointed by the secretary or the secretary's designee
33 to serve subpoenas may make service any place in the state. The subpoena
34 shall be served as follows:

35 (1) *Individual.* Service upon an individual, other than a minor or
36 incapacitated person, shall be made: (A) By delivering a copy of the
37 subpoena to the individual personally; (B) by leaving a copy at such
38 individual's dwelling house or usual place of abode with some person of
39 suitable age and discretion then residing therein; (C) by leaving a copy at
40 the business establishment of the employer with an officer or employee of
41 the establishment; (D) by delivering a copy to an agent authorized by
42 appointment or by law to receive service of process, but if the agent is one
43 designated by a statute to receive service, such further notice as the statute

1 requires shall be given; or (E) if service as prescribed above in
2 subparagraphs (A), (B), (C) or (D) cannot be made with due diligence, by
3 leaving a copy of the subpoena at the individual's dwelling house, usual
4 place of abode or usual business establishment, and by mailing a notice by
5 first-class mail to the place that the copy has been left.

6 (2) *Corporations and partnerships.* Service upon a domestic or
7 foreign corporation or upon a partnership or other unincorporated
8 association, when by law it may be sued as such, shall be made by
9 delivering a copy of the subpoena to an officer, partner or resident
10 managing or general agent thereof, or by leaving the copy at any business
11 office of the employer with the person having charge thereof or by
12 delivering a copy to any other agent authorized by appointment or required
13 by law to receive service of process, if the agent is one authorized by law
14 to receive service and, if the law so requires, by also mailing a copy to the
15 employer.

16 (3) *Refusal to accept service.* In all cases when the person to be
17 served, or an agent authorized by such person to accept service of petitions
18 and summonses shall refuse to receive copies of the subpoena, the offer of
19 the duly authorized process server to deliver copies thereof and such
20 refusal shall be sufficient service of such subpoena.

21 (4) *Proof of service.* (A) Every officer to whom a subpoena or other
22 process shall be delivered for service within or without the state, shall
23 make return thereof in writing stating the time, place and manner of
24 service of such writ and shall sign such officer's name to such return.

25 (B) If service of the subpoena is made by a person appointed by the
26 secretary or the secretary's designee to make service, or any other person
27 described in subsection (g), such person shall make an affidavit as to the
28 time, place and manner of service thereof in a form prescribed by the
29 secretary or the secretary's designee.

30 (5) *Time for return.* The officer or other person receiving a subpoena
31 shall make a return of service promptly and shall send such return to the
32 secretary or the secretary's designee in any event within 10 days after the
33 service is effected. If the subpoena cannot be served it shall be returned to
34 the secretary or the secretary's designee within 30 days after the date of
35 issue with a statement of the reason for the failure to serve the same.

36 (h) *Subpoenas, enforcement.* In case of contumacy by or refusal to
37 obey a subpoena issued to any person, any court of this state within the
38 jurisdiction of which the inquiry is carried on or within the jurisdiction of
39 which such person guilty of contumacy or refusal to obey is found, resides
40 or transacts business, upon application by the secretary or the secretary's
41 duly authorized representative, shall have jurisdiction to issue to such
42 person an order requiring such person to appear before the secretary, or the
43 secretary's duly authorized representative, to produce evidence, if so

1 ordered, or to give testimony relating to the matter under investigation or
2 in question. Failure to obey such order of the court may be punished by the
3 court as a contempt thereof. Any person who, without just cause, shall fail
4 or refuse to attend and testify or to answer any lawful inquiry or to
5 produce books, papers, correspondence, memoranda or other records in
6 obedience to the subpoena of the secretary or the secretary's duly
7 authorized representative shall be punished by a fine of not less than \$200
8 or by imprisonment of not longer than 60 days, or both, and each day such
9 violation continued shall be deemed to be a separate offense.

10 (i) *State-federal cooperation.* In the administration of this act, the
11 secretary shall cooperate to the fullest extent consistent with the provisions
12 of this act, with the federal security agency, shall make such reports, in
13 such form and containing such information as the federal security
14 administrator may from time to time require, and shall comply with such
15 provisions as the federal security administrator may from time to time find
16 necessary to assure the correctness and verification of such reports; and
17 shall comply with the regulations prescribed by the federal security agency
18 governing the expenditures of such sums as may be allotted and paid to
19 this state under title III of the social security act for the purpose of
20 assisting in the administration of this act. Upon request therefor the
21 secretary shall furnish to any agency of the United States charged with the
22 administration of public works or assistance through public employment,
23 the name, address, ordinary occupation, and employment status of each
24 recipient of benefits and such recipient's rights to further benefits under
25 this act.

26 (j) *Reciprocal arrangements.* The secretary shall participate in
27 making reciprocal arrangements with appropriate and duly authorized
28 agencies of other states or of the federal government, or both, whereby:

29 (1) Services performed by an individual for a single employing unit
30 for which services are customarily performed in more than one state shall
31 be deemed to be services performed entirely within any one of the states:
32 (A) In which any part of such individual's service is performed; (B) in
33 which such individual maintains residence; or (C) in which the employing
34 unit maintains a place of business, provided there is in effect as to such
35 services, an election, approved by the agency charged with the
36 administration of such state's unemployment compensation law, pursuant
37 to which all the services performed by such individual for such employing
38 units are deemed to be performed entirely within such state;

39 (2) service performed by not more than three individuals, on any
40 portion of a day but not necessarily simultaneously, for a single employing
41 unit which customarily operates in more than one state shall be deemed to
42 be service performed entirely within the state in which such employing
43 unit maintains the headquarters of its business; provided that there is in

1 effect, as to such service, an approved election by an employing unit with
2 the affirmative consent of each such individual, pursuant to which service
3 performed by such individual for such employing unit is deemed to be
4 performed entirely within such state;

5 (3) potential rights to benefits accumulated under the employment
6 compensation laws of one or more states or under one or more such laws
7 of the federal government, or both, may constitute the basis for the
8 payments of benefits through a single appropriate agency under terms
9 which the secretary finds will be fair and reasonable as to all affected
10 interests and will not result in any substantial loss to the fund;

11 (4) wages or services, upon the basis of which an individual may
12 become entitled to benefits under an unemployment compensation law of
13 another state or of the federal government, shall be deemed to be wages
14 for insured work for the purpose of determining such individual's rights to
15 benefits under this act, and wages for insured work, on the basis of which
16 an individual may become entitled to benefits under this act, shall be
17 deemed to be wages or services on the basis of which unemployment
18 compensation under such law of another state or of the federal government
19 is payable, but no such arrangement shall be entered into unless it contains
20 provisions for reimbursements to the fund for such of the benefits paid
21 under this act upon the basis of such wages or services, and provisions for
22 reimbursements from the fund for such of the compensation paid under
23 such other law upon the basis of wages for insured work, as the secretary
24 finds will be fair and reasonable as to all affected interests; and

25 (5) (A) contributions due under this act with respect to wages for
26 insured work shall be deemed for the purposes of K.S.A. 44-717, and
27 amendments thereto, to have been paid to the fund as of the date payment
28 was made as contributions therefor under another state or federal
29 unemployment compensation law, but no such arrangement shall be
30 entered into unless it contains provisions for such reimbursements to the
31 fund of such contributions and the actual earnings thereon as the secretary
32 finds will be fair and reasonable as to all affected interests;

33 (B) reimbursements paid from the fund pursuant to subsection (j)(4)
34 shall be deemed to be benefits for the purpose of K.S.A. 44-704 and 44-
35 712, and amendments thereto; the secretary is authorized to make to other
36 state or federal agencies, and to receive from such other state or federal
37 agencies, reimbursements from or to the fund, in accordance with
38 arrangements entered into pursuant to the provisions of this section or any
39 other section of the employment security law;

40 (C) the administration of this act and of other state and federal
41 unemployment compensation and public employment service laws will be
42 promoted by cooperation between this state and such other states and the
43 appropriate federal agencies in exchanging services and in making

1 available facilities and information; the secretary is therefore authorized to
2 make such investigations, secure and transmit such information, make
3 available such services and facilities and exercise such of the other powers
4 provided herein with respect to the administration of this act as the
5 secretary deems necessary or appropriate to facilitate the administration of
6 any such unemployment compensation or public employment service law
7 and, in like manner, to accept and utilize information, service and facilities
8 made available to this state by the agency charged with the administration
9 of any such other unemployment compensation or public employment
10 service law; and

11 (D) to the extent permissible under the laws and constitution of the
12 United States, the secretary is authorized to enter into or cooperate in
13 arrangements whereby facilities and services provided under this act and
14 facilities and services provided under the unemployment compensation
15 law of any foreign government may be utilized for the taking of claims and
16 the payment of benefits under the employment security law of this state or
17 under a similar law of such government.

18 (k) *Records available.* The secretary may furnish the railroad
19 retirement board, at the expense of such board, such copies of the records
20 as the railroad retirement board deems necessary for its purposes.

21 (l) *Destruction of records, reproduction and disposition.* The
22 secretary may provide for the destruction, reproduction, temporary or
23 permanent retention, and disposition of records, reports and claims in the
24 secretary's possession pursuant to the administration of the employment
25 security law provided that prior to any destruction of such records, reports
26 or claims the secretary shall comply with K.S.A. 75-3501-~~to~~ through 75-
27 3514, ~~inclusive~~, and amendments thereto.

28 (m) *Federal cooperation.* The secretary may afford reasonable
29 cooperation with every agency of the United States charged with
30 administration of any unemployment insurance law.

31 (n) The secretary is hereby authorized to fix, charge and collect fees
32 for copies made of public documents, as defined by K.S.A. 45-217(c), and
33 amendments thereto, by xerographic, thermographic or other photocopying
34 or reproduction process, in order to recover all or part of the actual costs
35 incurred, including any costs incurred in certifying such copies. All
36 moneys received from fees charged for copies of such documents shall be
37 remitted to the state treasurer in accordance with the provisions of K.S.A.
38 75-4215, and amendments thereto. Upon receipt of each such remittance,
39 the state treasurer shall deposit the entire amount in the state treasury to
40 the credit of the employment security administration fund. No such fees
41 shall be charged or collected for copies of documents that are made
42 pursuant to a statute which requires such copies to be furnished without
43 expense.

1 (o) "Performance of official duties" means the administration or
2 enforcement of law or the execution of the official responsibilities of a
3 federal, state or local official, collection of debts owed to the courts or the
4 enforcement of child support on behalf of a state or local official.
5 Administration of law includes research related to the law administered by
6 the public official. "Performance of official duties" does not include
7 solicitation of contributions or expenditures to or on behalf of a candidate
8 for public or political office or a political party.

9 ***{Sec. 17. K.S.A. 2020 Supp. 44-719 is hereby amended to read as***
10 ***follows: 44-719. (a) (1) Except as provided in subsection (a)(2), any***
11 ***person who makes a false statement or representation knowing it to be***
12 ***false or knowingly fails to disclose a material fact, to obtain or increase***
13 ***any benefit or other payment under this act, either for such person or***
14 ***for any other person, shall be guilty of theft and shall be punished in***
15 ***accordance with the provisions of K.S.A. 2020 Supp. 21-5801, and***
16 ***amendments thereto.***

17 (2) *Any violation of subsection (a)(1) shall be a severity level 2,*
18 *nonperson felony if such person:*

19 (A) *Had no basis to obtain or increase any benefit or other payment*
20 *under this act because the person is a resident of another state or foreign*
21 *nation, failed to engage in employment as defined in K.S.A. 44-703, and*
22 *amendments thereto, and failed to perform any services for wages within*
23 *this state not within the meaning of employment as defined in K.S.A. 44-*
24 *703, and amendments thereto;*

25 (B) *knowingly made the false statement or representation in such a*
26 *manner that such statement or representation purports to have been made*
27 *by another person, either real or fictitious, and if a real person without the*
28 *authority of such person; and*

29 (C) *communicated or caused to be communicated a false statement*
30 *or representation on three or more occasions within a 30 - day period that*
31 *purported to be from different other persons, as provided by paragraph (2)*
32 *(B), to the department of labor.*

33 (b) ***Any employing unit or any officer or agent for any employing***
34 ***unit or any other person who makes a false statement or representation***
35 ***knowing it to be false, or who knowingly fails to disclose a material fact,***
36 ***to prevent or reduce the payment of benefits to any individual entitled***
37 ***thereto, or to avoid becoming or remaining subject hereto or to avoid or***
38 ***reduce any contribution or other payment required from an employing***
39 ***unit under this act, or who willfully fails or refuses to make any such***
40 ***contributions or other payment or to furnish any reports required***
41 ***hereunder or to produce or permit the inspection or copying of records***
42 ***as required hereunder, shall be punished by a fine of not less than \$20***
43 ***nor more than \$200, or by imprisonment for not longer than 60 days, or***

1 *both such fine and imprisonment. Each such false statement or*
2 *representation or failure to disclose a material fact and each day of such*
3 *failure or refusal shall constitute a separate offense.*

4 *(c) Any person who willfully violates any provision of this act or*
5 *any rule and regulation adopted by the secretary hereunder, the*
6 *violation of which is made unlawful or the observance of which is*
7 *required under the terms of this act, and for which a penalty is neither*
8 *prescribed herein or provided by any other applicable statute, shall be*
9 *punished by a fine of not less than \$20 nor more than \$200, or by*
10 *imprisonment for not longer than 60 days, or by both such fine and*
11 *imprisonment, and each day such violation continues shall be deemed to*
12 *be a separate offense.*

13 *(d) (1) Any person who has received any amount of money as*
14 *benefits under this act while any conditions for the receipt of benefits*
15 *imposed by this act were not fulfilled in such person's case, or while*
16 *such person was disqualified from receiving benefits, shall in the*
17 *discretion of the secretary, either be liable to have such amount of*
18 *money deducted from any future benefits payable to such person under*
19 *this act or shall be liable to repay to the secretary for the employment*
20 *security fund an amount of money equal to the amount so received by*
21 *such person. After a period of five years, the secretary may waive the*
22 *collection of any such amount of money when the secretary has*
23 *determined that the payment of such amount of money was not due to*
24 *fraud, misrepresentation, or willful nondisclosure on the part of the*
25 *person receiving such amount of money, and the collection thereof*
26 *would be against equity or would cause extreme hardship with regard to*
27 *such person. The collection of benefit overpayments which were made in*
28 *the absence of fraud, misrepresentation or willful nondisclosure of*
29 *required information on the part of the person who received such*
30 *overpayments, may be waived by the secretary at any time if such person*
31 *met all eligibility requirements of the employment security law during*
32 *the weeks in which the overpayments were made.*

33 *(2) Any benefit erroneously paid which is not repaid shall bear*
34 *interest at the rate of 1.5% per month or fraction of a month. If the*
35 *benefit was received as a result of fraud, misrepresentation or willful*
36 *nondisclosure of required information, interest shall accrue from the*
37 *date of the final determination of overpayment until repayment plus*
38 *interest is received by the secretary. If the overpayment was without*
39 *fraud, misrepresentation or willful nondisclosure of required*
40 *information, interest shall accrue upon any balance which remains*
41 *unpaid two years after the final determination of overpayment is made*
42 *and shall continue until payment plus accrued interest is received by the*
43 *secretary. Interest collected pursuant to this section shall be paid into the*

1 *special employment security fund, except that interest collected on*
2 *federal administrative programs shall be returned to the federal*
3 *government. Upon written request and for good cause shown, the*
4 *secretary may abate any interest or portion thereof provided for by this*
5 *subsection (d)(2). Interest accrued may not be paid by money deducted*
6 *from any future benefits payable to such persons liable for any*
7 *overpayment.*

8 (3) *Unless collection is waived by the secretary, any such amount*
9 *shall be collectible in the manner provided in K.S.A. 44-717, and*
10 *amendments thereto, for the collection of past due contributions. The*
11 *courts of this state shall in like manner entertain actions to collect*
12 *amounts of money erroneously paid as benefits, or unlawfully obtained,*
13 *for which liability has accrued under the employment security law of*
14 *any other state or of the federal government.*

15 (4) *In cases involving the collection of debts arising from the*
16 *employment security law, the actual amount received from the United*
17 *States department of treasury under the treasury offset program or its*
18 *successor shall be credited to the overpayment and any fee charged by*
19 *the department of treasury shall be borne by the debtor.*

20 (e) *Any employer or person who willfully fails or refuses to pay*
21 *contributions, payments in lieu of contributions or benefit cost payments*
22 *or attempts in any manner to evade or defeat any such contributions,*
23 *payments in lieu of contributions or benefit cost payments or the*
24 *payment thereof, shall be liable for the payment of such contributions,*
25 *payments in lieu of contributions or benefit cost payments and, in*
26 *addition to any other penalties provided by law, shall be liable to pay a*
27 *penalty equal to the total amount of the contributions, payments in lieu*
28 *of contributions or benefit cost payments evaded or not paid.*

29 (f) (1) *It shall be unlawful for an employing unit to knowingly*
30 *obtain or attempt to obtain a reduced liability for contributions under*
31 *K.S.A. 44-710a(b)(1), and amendments thereto, through manipulation of*
32 *the employer's workforce, or for an employing unit that is not an*
33 *employing unit at the time it acquires the trade or business, to knowingly*
34 *obtain or attempt to obtain a reduced liability for contributions under*
35 *K.S.A. 44-710a(b)(5), and amendments thereto, or any other provision of*
36 *K.S.A. 44-710a, and amendments thereto, related to determining the*
37 *assignment of a contribution rate, when the sole or primary purpose of*
38 *the business acquisition was for the purpose of obtaining a lower rate of*
39 *contributions, or for a person to knowingly advise an employing unit in*
40 *such a way that results in such a violation, such employing unit or*
41 *person shall be subject to the following penalties:*

42 (A) *If the person is an employer, then such employer shall be*
43 *assigned the highest rate assignable under K.S.A. 44-710a, and*

1 *amendments thereto, for the rate year during which such violation or*
2 *attempted violation occurred and the three rate years immediately*
3 *following this rate year. However, if the employer's business is already at*
4 *such highest rate for any year, or if the amount of increase in the*
5 *employer's rate would be less than 2% for such year, then a penalty rate*
6 *of contributions of 2% of taxable wages shall be imposed for such year.*
7 *Any moneys resulting from the difference of the computed rate and the*
8 *penalty rate shall be remitted to the state treasurer in accordance with*
9 *the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt*
10 *of each such remittance, the state treasurer shall deposit the entire*
11 *amount in the state treasury to the credit of the special employment*
12 *security fund.*

13 *(B) If the person is not an employer, such person shall be subject to*
14 *a civil money penalty of not more than \$5,000. All fines assessed and*
15 *collected under this section shall be remitted to the state treasurer in*
16 *accordance with the provisions of K.S.A. 75-4215, and amendments*
17 *thereto. Upon receipt of each such remittance, the state treasurer shall*
18 *deposit the entire amount in the state treasury to the credit of the special*
19 *employment security fund.*

20 *(2) For purposes of this subsection, the term "knowingly" means*
21 *having actual knowledge of or acting with deliberate ignorance or*
22 *reckless disregard for the prohibition involved.*

23 *(3) For purposes of this subsection, the term "violates or attempts*
24 *to violate" includes, but is not limited to, any intent to evade,*
25 *misrepresentation or willful nondisclosure.*

26 *(4) (A) In addition to, or in lieu of, any civil penalty imposed by*
27 *paragraph (1) if, the director of employment security or a special*
28 *assistant attorney general assigned to the department of labor, has*
29 *probable cause to believe that a violation of this subsection (f) should be*
30 *prosecuted as a crime, a copy of any order, all investigative reports and*
31 *any evidence in the possession of the division of employment security*
32 *which relates to such violation, may be forwarded to the prosecuting*
33 *attorney in the county in which the act or any of the acts were performed*
34 *which constitute a violation of this subsection (f). Any case which a*
35 *county or district attorney fails to prosecute within 90 days shall be*
36 *returned promptly to the director of employment security. The special*
37 *assistant attorney general assigned to the Kansas department of labor*
38 *shall then notify the attorney general and if, in the opinion of the*
39 *attorney general, the acts or practices involved warrant prosecution, the*
40 *attorney general shall prosecute the case.*

41 *(B) Violation of this subsection (f) shall be a level 9, nonperson*
42 *felony.*

43 *(5) The secretary shall establish procedures to identify the transfer*

1 *or acquisition of a business for purposes of this section.*

2 *(6) For purposes of subsection (f):*

3 *(A) "Person" has the meaning given such term by section 7701(a)*
 4 *(1) of the internal revenue code of 1986;*

5 *(B) "trade or business" shall include the employer's workforce;*
 6 *and*

7 *(C) the provisions of K.S.A. 2020 Supp. 21-5211 and 21-5212, and*
 8 *amendments thereto, shall apply.*

9 *(7) This subsection (f) shall be interpreted and applied in such a*
 10 *manner as to meet the minimum requirements contained in any*
 11 *guidance or regulation issued by the United States department of labor.}*

12 *Sec. ~~17~~ {18} K.S.A. 2020 Supp. 44-757 is hereby amended to read*
 13 *as follows: 44-757. Shared work unemployment compensation program.*

14 *(a) As used in this section:*

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

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

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

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

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

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

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

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

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

41 ~~*(10) "Shared work unemployment compensation program" means a*~~
 42 ~~*program designed to reduce unemployment and stabilize the work force by*~~
 43 ~~*allowing certain employees to collect unemployment compensation*~~

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

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

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

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

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

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

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

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

40 (d) An employer who wishes to participate in the ~~shared work~~
41 ~~unemployment~~ short-term compensation program must submit a written
42 shared work plan to the secretary for the secretary's approval. As a
43 condition for approval, a participating employer must agree to furnish the

1 secretary with reports relating to the operation of the shared work plan as
2 requested by the secretary. The employer shall monitor and evaluate the
3 operation of the established shared work plan as requested by the secretary
4 and shall report the findings to the secretary.

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

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

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

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

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

15 (5) the shared work plan describes the manner that the participating
16 employer treats the fringe benefits of each employee in the affected unit
17 and the employer certifies that if the employer provides health benefits and
18 retirement benefits under a defined benefit plan, as defined in 26 U.S.C. §
19 414(j), or contributions under a defined contribution plan, as defined in 26
20 U.S.C. § 414(i), to any employee whose workweek is reduced under the
21 program that such benefits will continue to be provided to employees
22 participating in the ~~shared work~~ *short-term* compensation program under
23 the same terms and conditions as though the workweek of such employee
24 had not been reduced or to the same extent as other employees not
25 participating in the ~~shared work~~ *short-term compensation* program;

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

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

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

40 (B) *if section 2108 of the federal CARES act, public law 116-136, is*
41 *no longer in effect, a contributing employer eligible for a rate computation*
42 *under K.S.A. 44-710(a)(2), and amendments thereto, that is a negative*
43 *account employer as defined by K.S.A. 44-710a(d), and amendments*

1 *thereto, may only be approved for a shared work application if the*
2 *negative account employer's most recent calculated reserve ratio has*
3 *improved from the previous reporting year's reserve ratio;*

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

6 (9) eligible employees may participate, as appropriate, in training,
7 including without limitation, employer-sponsored training or worker
8 training funded under the workforce investment act of 1998, to enhance
9 job skills if such program has been approved by the state of Kansas;

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

15 (11) the terms of the employer's written plan and implementation are
16 consistent with employer obligations under applicable federal and Kansas
17 laws.

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

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

24 ~~(g)~~(h) The secretary shall approve or deny a shared work plan no later
25 than the 30th day after the day the shared work plan is received by the
26 secretary. The secretary shall approve or deny a shared work plan in
27 writing. If the secretary denies a shared work plan, the secretary shall
28 notify the employer of the reasons for the denial.

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

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

1 work plan to fail to meet the requirements for approval, the secretary shall
2 deny approval to the modifications as provided by subsection (g).

3 ~~(j)~~(k) Notwithstanding any other provisions of the employment
4 security law, an individual is unemployed and is eligible for shared work
5 benefits in any week in which the individual, as an employee in an affected
6 unit, works for less than the individual's normal weekly hours of work in
7 accordance with an approved shared work plan in effect for that week. The
8 secretary may not deny shared work benefits for any week to an otherwise
9 eligible individual by reason of the application of any provision of the
10 employment security law that relates to availability for work, active search
11 for work or refusal to apply for or accept work with an employer other
12 than the participating employer.

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

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

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

23 ~~(2)~~(3) the individual is able to work and is available for additional
24 hours of work or full-time work with the participating employer;

25 ~~(3)~~(4) the individual's normal weekly hours of work have been
26 reduced by at least ~~20%~~ 10% but not more than ~~40%~~ 50%, with a
27 corresponding reduction in wages; and

28 ~~(4)~~(5) the individual's normal weekly hours of work and wages have
29 been reduced as described in subsection (k)~~(3)~~(4) for a waiting period of
30 one week that occurs within the period the shared work plan is in effect,
31 which period includes the week for which the individual is claiming shared
32 work benefits.

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

41 ~~(m)~~(n) An individual may not receive shared work benefits and
42 regular unemployment compensation benefits in an amount that exceeds
43 the maximum total amount of benefits payable to that individual in a

1 benefit year as provided by K.S.A. 44-704(g), and amendments thereto.

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

7 (o)(p) The secretary may terminate a shared work plan for good cause
8 if the secretary determines that the shared work plan is not being executed
9 according to the terms and intent of the ~~shared work unemployment~~ *short-*
10 *term* compensation program.

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

21 (q)(r) No shared work benefit payment shall be made under any
22 shared work plan or this section for any week that commences before April
23 1, 1989.

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

26 ~~Sec. 18, §19,}~~ K.S.A. 44-758 is hereby amended to read as follows:
27 44-758. (a) Any employer or any individual, organization, partnership,
28 corporation or other legal entity ~~which~~ *that* is a lessor employing unit, as
29 defined by ~~subsection (ff) of~~ K.S.A. 44-703(ff), and amendments thereto,
30 shall be liable for contributions on wages paid by the lessor employing
31 unit to individuals performing services for client lessees. ~~For the purposes~~
32 ~~of the employment security law, no client lessee shall lease an individual~~
33 ~~proprietor, partner or corporate officer, who is a shareholder or a member~~
34 ~~of the board of directors of the corporation, from any lessor employing~~
35 ~~unit.~~ Any client lessee shall be jointly and severally liable for any unpaid
36 contributions, interest and penalties due under this law from any lessor
37 employing unit attributable to wages for services performed for the client
38 lessee by employees leased to the client lessee. The lessor employing unit
39 shall keep separate records and submit separate quarterly contributions and
40 wage reports for each client lessee.

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

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

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

8 Sec. ~~19~~, ***{20}*** K.S.A. 44-758 and K.S.A. 2020 Supp. 44-703, 44-704,
9 44-705, 44-706, 44-709, 44-710, 44-710a, 44-710b, 44-714, ***{44-719}*** and
10 44-757 are hereby repealed.

11 Sec. ~~20~~, ***{21}*** This act shall take effect and be in force from and after
12 its publication in the Kansas register.