

HOUSE BILL No. 2703

AN ACT concerning employment; relating to the employment security law; employment security fund; employer contribution rates; revising the definition of employment for conformity with federal law; making changes to the my reemployment plan program including making the program mandatory with specified exceptions; providing that the secretary of labor is to request that claimants create resumes in the Kansasworks system and that the secretary of commerce shall provide assistance to claimants through Kansasworks and may require claimants to participate in reemployment services; providing claimants with additional time to respond; enacting the Kansas targeted employment act to facilitate employment of persons with developmental disabilities through a tax credit incentive for employers; amending K.S.A. 44-703, 44-710a and 44-775 and repealing the existing sections.

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

New Section 1. The provisions of sections 1 through 6, and amendments thereto, shall be known and may be cited as the Kansas targeted employment act. The purpose of this act shall be to incentivize employers to employ persons with developmental disabilities in Kansas and decrease the reliance and associated costs to taxpayers to fund governmental programs.

New Sec. 2. As used in this act:

(a) "Competitive integrated employment" has the meaning as provided in the workforce innovation and opportunity act, 29 U.S.C. § 3101 et seq., as defined in 29 U.S.C. § 3102, 34 C.F.R. § 361.5 and 29 U.S.C. § 705.

(b) "Community service provider" means an association or organization licensed by the Kansas department for aging and disability services whose purpose is to provide support and services, relating to the ability to live and to work in the community, to persons who, without such support and services, would be unable or would have significant difficulty maintaining employment or living in the community. "Community service provider" also includes other governmental agencies that support or that elect to support eligible individuals with job placement and job preservation supports including, but not limited to, school districts, community mental health centers and vocational rehabilitation contractors.

(c) "Earned income" means compensation paid to a Kansas employee for competitive integrated employment that is equal or greater than the minimum wage and is performed in a competitive integrated setting.

(d) "Eligible individual" means an individual, including a high school student, who is a Kansas resident, is employed by an employer in a competitive integrated setting, has a developmental disability that has been documented as required by the secretary for aging and disability services and who has agreed to provide the secretary for aging and disability services, or the secretary's designee, information required by the secretary pursuant to the Kansas targeted employment act, or to permit the secretary of revenue to provide such information to the secretary for aging and disability services.

(e) "Developmental disability" means the same as defined in K.S.A. 39-1803, and amendments thereto.

(f) "Targeted employment business" means those employers employing eligible individuals in competitive integrated employment in a competitive integrated setting and who are authorized to do business in Kansas. In order to qualify as a "targeted employment business," the employer must pay earned income to an eligible individual in a calendar year. "Targeted employment business" does not include a community service provider.

New Sec. 3. For tax years 2022 through 2027, a credit shall be allowed against the income, privilege or premium tax liability imposed upon a taxpayer qualifying as a targeted employment business or a taxpayer outsourcing work to a targeted employment business pursuant to the Kansas income tax act, the privilege tax imposed upon any national banking association, state bank, trust company or savings and loan association pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, or the premiums tax and privilege fees imposed upon an insurance company pursuant to K.S.A. 40-252, and amendments thereto, for every hour that an eligible individual is employed in a calendar year in a targeted employment business and receives earned income as compensation. The credit shall only apply to wages for hours worked and not for any compensation for leave paid to the eligible individual. The credit shall be 50% of the

wages paid to the eligible individual on an hourly basis, up to a maximum credit of \$7.50 per hour. For the purpose of calculating the tax credit, the wage rate used shall not be more than a reasonable or usual and customary market wage rate for a similar job. The credit shall not be refundable, shall not be carried forward and shall only be used once each taxable year against tax liability imposed by only one of the income, privilege or premium taxes. For any employed eligible individual who receives support or services from a community service provider, such eligible individual may choose to have support or services provided as needed at the individual's worksite to help the individual maintain employment. The maximum amount of all tax credits allowed in each tax year under the Kansas targeted employment act shall be \$5,000,000.

New Sec. 4. (a) Any targeted employment business seeking to qualify for a tax credit pursuant to section 3, and amendments thereto, shall provide to the secretary of revenue the names of each eligible individual employed and the wage rate per hour, hours worked and gross wages paid, minus any compensation for leave, for each eligible individual and such other information as the secretary of revenue may require.

(b) The secretary of revenue and the secretary for aging and disability services are hereby authorized to adopt such rules and regulations as may be necessary for the administration of the provisions of the Kansas targeted employment act.

New Sec. 5. (a) The secretary for aging and disability services shall develop and implement a program to measure the results of the tax credits allowed by sections 1 through 4, and amendments thereto, including an analysis of: (1) Decreases in reliance upon state government-funded subsidies for employed eligible individuals and any associated net savings to Kansas taxpayers resulting from any such decreases in reliance; (2) effects of reallocation of tax dollars that employers would have paid to the state government of Kansas to employers who employed eligible individuals pursuant to the tax credit program; and (3) any benefits or detriments to the quality of life and the standard of living for employed eligible individuals, including access to health insurance, healthcare or other services and increases or decreases in income, discretionary income and expenses. The secretary for aging and disability services may require employed eligible individuals or targeted employment businesses to provide or to permit the secretary of revenue to provide, as a condition of participation in the tax credit program, information necessary to assess the tax credit program pursuant to this section, including information otherwise confidential under state or federal law. All confidential information provided shall be received, stored and used in a manner that shall maintain the confidentiality of the information provided and not permit the identification of eligible individuals or targeted employment businesses.

(b) Notwithstanding any other provision of state law, the secretary of revenue shall provide the secretary for aging and disability services with tax information, including tax information for individuals and targeted employment businesses that have waived the confidentiality of such information, as necessary to enable the secretary for aging and disability services to fulfill the requirements of this section. All information pertaining to an eligible individual or targeted employment business shall be provided in a manner that shall maintain the confidentiality of such eligible individuals and businesses. Nothing in this section shall be construed to violate or conflict with any federal law.

(c) The secretary for aging and disability services shall submit a written report of the findings of the secretary's review pursuant to subsection (a) to the standing committee on commerce of the senate and the standing committee on commerce, labor and economic development of the house on the first day of the 2023 through 2027 regular sessions of the legislature.

New Sec. 6. The provisions of sections 1 through 5, and amendments thereto, shall expire on January 1, 2028, except that tax credits earned in tax year 2027 may be awarded by the secretary of revenue as provided by this act.

Sec. 7. K.S.A. 44-703 is hereby amended to read as follows: 44-

703. As used in this act, unless the context clearly requires otherwise:

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

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

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

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

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

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

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

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

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

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

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

(2) "Payments in lieu of contributions" means the money payments to the state employment security fund from employers that

are required to make or that elect to make such payments under K.S.A. 44-710(e), and amendments thereto.

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

(h) "Employer" means:

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

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

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

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

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

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

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

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

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

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

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

(2) (A) Any employing unit that for calendar year 2007 and each calendar year thereafter: (i) In any calendar quarter in either the current or preceding calendar year paid for services in employment wages of \$1,500 or more; (ii) for some portion of a day in each of 20 different calendar weeks, whether or not such weeks were consecutive, in either the current or preceding calendar year, had in employment at least one individual, whether or not the same individual was in employment in

each such day; or (iii) elects to have an unemployment tax account established at the time of initial registration in accordance with K.S.A. 44-711(c), and amendments thereto.

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

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

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

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

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

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

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

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

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

(i) "Employment" means:

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

(A) Any active officer of a corporation; or

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

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

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

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

For purposes of subsection (i)(1)(C), the term "employment"

includes services described in paragraphs (i) and (ii) above only if:

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

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

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

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

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

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

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

(3) The term "employment" also includes:

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

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

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

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

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

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

(G) The term "employment" includes the services of an individual who is a citizen of the United States, performed outside the United States except in Canada, in the employ of an American employer, other

than service that is deemed "employment" under the provisions of subsection (i)(2) or subsection (i)(3) or the parallel provisions of another state's law, if:

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

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

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

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

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

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

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

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

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

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

or

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

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

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

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

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

(i) As an elected official;

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

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

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

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

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

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

(D) services performed in the employ of the United States government or an instrumentality of the United States exempt under the constitution of the United States from the contributions imposed by this

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

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

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

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

(H) services performed in any calendar quarter in the employ of any organization exempt from income tax under section 501(a) of the federal internal revenue code of 1986, other than an organization described in section 401(a) or under section 521 of such code, if the remuneration for such service is less than \$50. In construing the application of the term "employment," if services performed during $\frac{1}{2}$ or more of any pay period by an individual for the person employing such individual constitute employment, all the services of such individual for such period shall be deemed to be employment; but if the services performed during more than $\frac{1}{2}$ of any such pay period by an individual for the person employing such individual do not constitute employment, then none of the services of such individual for such period shall be deemed to be employment. As used in this subsection (i) (4)(H) the term "pay period" means a period, of not more than 31 consecutive days, for which a payment of remuneration is ordinarily made to the individual by the person employing such individual. This subsection (i)(4)(H) shall not be applicable with respect to services with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of congress;

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

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

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

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

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

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

training;

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

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

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

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

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

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

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

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

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

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

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

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

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

exempt from income taxation under section 501(a) of the code;

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

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

(i) Such person:

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

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

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

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

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

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

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

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

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

(i) Negotiating for the acquisition or divestiture of mineral rights;

(ii) negotiating business agreements that provide exploration for or development of minerals;

(iii) determining ownership in minerals through the research of public and private records;

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

properties;

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

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

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

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

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

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

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

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

(1) That part of the remuneration that has been paid in a calendar year to an individual by an employer or such employer's predecessor in excess of \$3,000 for all calendar years prior to 1972, in excess of \$4,200 for the calendar years 1972 to 1977, inclusive, in excess of \$6,000 for calendar years 1978 to 1982, inclusive, in excess of \$7,000 for the calendar year 1983, in excess of \$8,000 for the calendar years 1984 to 2014, inclusive, and in excess of \$12,000 with respect to employment during calendar year 2015, and in excess of \$14,000 with respect to all calendar years thereafter, except that if the definition of the term "wages" as contained in the federal unemployment tax act is amended to include remuneration paid to an individual by an employer under the federal act in excess of \$8,000 for the calendar years 1984-2014, inclusive, and in excess of \$12,000 with respect to employment during calendar year 2015, and in excess of \$14,000 with respect to all calendar years thereafter, wages shall include remuneration paid in a

calendar year to an individual by an employer subject to this act or such employer's predecessor with respect to employment during any calendar year up to an amount equal to the dollar limitation specified in the federal unemployment tax act. For the purposes of this subsection (o)(1), the term "employment" shall include service constituting employment under any employment security law of another state or of the federal government;

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

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

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

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

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

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

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

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

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

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

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

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

(7) remuneration paid to or on behalf of an employee if and to the extent that at the time of the payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under

section 217 of the federal internal revenue code of 1986 relating to moving expenses;

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

(A) Upon or after the termination of an employee's employment relationship because of (i) death or (ii) retirement for disability; and

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

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

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

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

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

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

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

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

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

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

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

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

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

(s) "Approved training" means any vocational training course or course in basic education skills, including a job training program

authorized under the federal workforce investment act of 1998, approved by the secretary or a person or persons designated by the secretary.

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

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

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

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

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

(4) is a public or other nonprofit institution.

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

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

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

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

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

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

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

(ii) in the employ of a group of operators of farms, or a

cooperative organization of which such operators are members, in the performance of services described in paragraph (i), but only if such operators produced more than ½ of the commodity with respect to which such service is performed;

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

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

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

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

(4) For the purpose of this section, if an employing unit does not maintain sufficient records to separate agricultural labor from other employment, all services performed during any pay period by an individual for the person employing such individual shall be deemed to be agricultural labor if services performed during ½ or more of such pay period constitute agricultural labor; but if the services performed during more than ½ of any such pay period by an individual for the person employing such individual do not constitute agricultural labor, then none of the services of such individual for such period shall be deemed to be agricultural labor. As used in this subsection, the term "pay period" means a period of not more than 31 consecutive days for which a payment of remuneration is ordinarily made to the individual by the person employing such individual.

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

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

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

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

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

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

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

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

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

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

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

Sec. 8. K.S.A. 44-710a is hereby amended to read as follows: 44-710a. (a) *Classification of employers by the secretary.* The term "employer" as used in this section refers to contributing employers. The secretary shall classify employers in accordance with their actual experience in the payment of contributions on their own behalf and with respect to benefits charged against their accounts with a view of fixing such contribution rates as will reflect such experience. If, as of the date such classification of employers is made, the secretary finds that any employing unit has failed to file any report required in connection therewith, or has filed a report which the secretary finds incorrect or insufficient, the secretary shall make an estimate of the information required from such employing unit on the basis of the best evidence reasonably available to the secretary at the time, and notify the employing unit thereof by mail addressed to its last known address. Unless such employing unit shall file the report or a corrected or sufficient report as the case may be, within 15 days after the mailing of such notice, the secretary shall compute such employing unit's rate of contributions on the basis of such estimates, and the rate as so determined shall be subject to increase but not to reduction on the basis of subsequently ascertained information. The secretary shall determine the contribution rate of each employer in accordance with the requirements of this section.

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

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

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

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

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

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

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

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

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

the contribution rate applicable to the new industry sector would become effective the following January 1.

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

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

(B) Negative account balance employers, as defined in subsection (d), shall pay contributions at the rate referenced in subsection (a)(4)(B).

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

(D) If the amounts collected from negative account balance employers and paid into the employment security interest assessment fund for the purpose of paying interest due and owing on funds received from the federal unemployment account under title XII of the social security act are in excess of the amounts needed to pay interest due, the amounts in excess shall remain in the employment security interest assessment fund to be used to pay interest in future years. Whenever the secretary certifies all interest payments have been paid, any excess funds remaining in the employment security interest assessment fund shall be transferred to the employment security trust fund for the purpose of paying any remaining principal amount due for advances described in this section. In the event that the amount transferred from the employment security interest assessment fund exceeds such remaining amount of principal due, the balance shall be used for the purposes of the employment security trust fund.

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

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

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

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

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

(B) *Effective rates.* (i) Employer contribution rates to be effective for each calendar year shall be determined by the applicable rate schedule in clause (ii) and the fund control table for the rate year as specified contained in this clause. The average high cost multiple of the trust fund as of the computation date shall determine the contribution

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

Fund Control Table A
For Rate Years 2016-2021

Lower AHCM Threshold	Upper AHCM Threshold	Solvency Adjustment to Rate per Standard Rate Schedule
-1,000.00000	0.19999	1.60%
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	-0.50%

Fund Control Table B

For Rate Year 2022 and Ensuing Calendar Years

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

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

(b) (1) In the event the full transfer of \$250,000,000 is not made as provided in K.S.A. 2021 Supp. 75-5745, and amendments thereto, to the employment security fund on or before July 15, 2021, all contributing employers shall pay the rate as set forth in standard rate schedule - standard rate schedule 7 for the 2022 calendar year.

(2) In the event the second transfer of up to \$250,000,000 is not made as provided in K.S.A. 2021 Supp. 75-5745, and amendments thereto, to the employment security fund on or before July 15, 2022, all contributing employers shall pay the rate as set forth in standard rate schedules - standard rate schedule 7 for the 2023 calendar year, *unless it is determined by actual calculation pursuant to fund control table B that credit rate schedules (8-13) would apply based on the health of the unemployment insurance trust fund.*

STANDARD RATE SCHEDULE -
STANDARD RATE SCHEDULE 7

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

SOLVENCY RATE SCHEDULES (1-6)

Rate Group	1	2	3	4	5	6
1	0.252632%	0.247375%	0.24211%	0.23684%	0.23158%	0.22632%
2	0.25%	0.25%	0.24%	0.24%	0.23%	0.23%
3	0.51%	0.49%	0.48%	0.47%	0.46%	0.45%
4	0.76%	0.74%	0.73%	0.71%	0.69%	0.68%
5	1.01%	0.99%	0.97%	0.95%	0.93%	0.91%
6	1.26%	1.24%	1.21%	1.18%	1.16%	1.13%
7	1.52%	1.48%	1.45%	1.42%	1.39%	1.36%
8	1.77%	1.73%	1.69%	1.66%	1.62%	1.58%
9	2.02%	1.98%	1.94%	1.89%	1.85%	1.81%
10	2.27%	2.23%	2.18%	2.13%	2.08%	2.04%
11	2.53%	2.47%	2.42%	2.37%	2.32%	2.26%
12	2.78%	2.72%	2.66%	2.61%	2.55%	2.49%
13	3.03%	2.97%	2.91%	2.84%	2.78%	2.72%
14	3.28%	3.22%	3.15%	3.08%	3.01%	2.94%
15	3.54%	3.46%	3.39%	3.32%	3.24%	3.17%
16	3.79%	3.71%	3.63%	3.55%	3.47%	3.39%
17	4.04%	3.96%	3.87%	3.79%	3.71%	3.62%

	4.29%	4.21%	4.12%	4.03%	3.94%	3.85%
18	4.547368%	4.45263%	4.35789%	4.26316%	4.16842%	4.07368%
	4.55%	4.45%	4.36%	4.26%	4.17%	4.07%
19	4.800000%	4.70000%	4.60000%	4.50000%	4.40000%	4.30000%
	4.80%	4.70%	4.60%	4.50%	4.40%	4.30%
20	5.052632%	4.94737%	4.84211%	4.73684%	4.63158%	4.52632%
	5.05%	4.95%	4.84%	4.74%	4.63%	4.53%
21	5.305263%	5.19474%	5.08421%	4.97368%	4.86316%	4.75263%
	5.31%	5.19%	5.08%	4.97%	4.86%	4.75%
22	5.557895%	5.44211%	5.32632%	5.21053%	5.09474%	4.97895%
	5.56%	5.44%	5.33%	5.21%	5.09%	4.98%
23	5.810526%	5.68947%	5.56842%	5.44737%	5.32632%	5.20526%
	5.81%	5.69%	5.57%	5.45%	5.33%	5.21%
24	6.063158%	5.93684%	5.81053%	5.68421%	5.55789%	5.43158%
	6.06%	5.94%	5.81%	5.68%	5.56%	5.43%
25	6.315789%	6.18421%	6.05263%	5.92105%	5.78947%	5.65789%
	6.32%	6.18%	6.05%	5.92%	5.79%	5.66%
26	6.568421%	6.43158%	6.29474%	6.15789%	6.02105%	5.88421%
	6.57%	6.43%	6.29%	6.16%	6.02%	5.88%
27	6.821053%	6.67895%	6.53684%	6.39474%	6.25263%	6.11053%
	6.82%	6.68%	6.54%	6.39%	6.25%	6.11%
N1	7.073684%	6.92632%	6.77895%	6.63158%	6.48421%	6.33684%
	7.07%	6.93%	6.78%	6.63%	6.48%	6.34%
N2	7.326316%	7.17368%	7.02105%	6.86842%	6.71579%	6.56316%
	7.33%	7.17%	7.02%	6.87%	6.72%	6.56%
N3	7.578947%	7.42105%	7.26316%	7.10526%	6.94737%	6.78947%
	7.58%	7.42%	7.26%	7.11%	6.95%	6.79%
N4	7.831579%	7.66842%	7.50526%	7.34211%	7.17895%	7.01579%
	7.83%	7.67%	7.51%	7.34%	7.18%	7.02%
N5	8.084211%	7.91579%	7.74737%	7.57895%	7.41053%	7.24211%
	8.08%	7.92%	7.75%	7.58%	7.41%	7.24%
N6	8.336842%	8.16316%	7.98947%	7.81579%	7.64211%	7.46842%
	8.34%	8.16%	7.99%	7.82%	7.64%	7.47%
N7	8.589474%	8.41053%	8.23158%	8.05263%	7.87368%	7.69474%
	8.59%	8.41%	8.23%	8.05%	7.87%	7.69%
N8	8.842105%	8.65789%	8.47368%	8.28947%	8.10526%	7.92105%
	8.84%	8.66%	8.47%	8.29%	8.11%	7.92%
N9	9.094737%	8.90526%	8.71579%	8.52632%	8.33684%	8.14737%
	9.09%	8.91%	8.72%	8.53%	8.34%	8.15%
N10	9.347368%	9.15263%	8.95789%	8.76316%	8.56842%	8.37368%
	9.35%	9.15%	8.96%	8.76%	8.57%	8.37%
N11	9.600000%	9.40000%	9.20000%	9.00000%	8.80000%	8.60000%
	9.60%	9.40%	9.20%	9.00%	8.80%	8.60%

CREDIT RATE SCHEDULES (8-13)

Rate Group	8	9	10	11	12	13
1	0.173684%	0.16842%	0.16316%	0.15789%	0.15263%	0.14737%
	0.17%	0.17%	0.16%	0.16%	0.15%	0.15%
2	0.347368%	0.33684%	0.32632%	0.31579%	0.30526%	0.29474%
	0.35%	0.34%	0.33%	0.32%	0.31%	0.29%
3	0.521053%	0.50526%	0.48947%	0.47368%	0.45789%	0.44211%
	0.52%	0.51%	0.49%	0.47%	0.46%	0.44%
4	0.694737%	0.67368%	0.65263%	0.63158%	0.61053%	0.58947%
	0.69%	0.67%	0.65%	0.63%	0.61%	0.59%
5	0.868421%	0.84211%	0.81579%	0.78947%	0.76316%	0.73684%
	0.87%	0.84%	0.82%	0.79%	0.76%	0.74%
6	1.042105%	1.01053%	0.97895%	0.94737%	0.91579%	0.88421%
	1.04%	1.01%	0.98%	0.95%	0.92%	0.88%
7	1.215789%	1.17895%	1.14211%	1.10526%	1.06842%	1.03158%
	1.22%	1.18%	1.14%	1.11%	1.07%	1.03%
8	1.389474%	1.34737%	1.30526%	1.26316%	1.22105%	1.17895%
	1.39%	1.35%	1.31%	1.26%	1.22%	1.18%
9	1.563158%	1.51579%	1.46842%	1.42105%	1.37368%	1.32632%
	1.56%	1.52%	1.47%	1.42%	1.37%	1.33%
10	1.736842%	1.68421%	1.63158%	1.57895%	1.52632%	1.47368%
	1.74%	1.68%	1.63%	1.58%	1.53%	1.47%
11	1.910526%	1.85263%	1.79474%	1.73684%	1.67895%	1.62105%
	1.91%	1.85%	1.79%	1.74%	1.68%	1.62%
12	2.084211%	2.02105%	1.95789%	1.89474%	1.83158%	1.76842%
	2.08%	2.02%	1.96%	1.89%	1.83%	1.77%
13	2.257895%	2.18947%	2.12105%	2.05263%	1.98421%	1.91579%
	2.26%	2.19%	2.12%	2.05%	1.98%	1.92%
14	2.431579%	2.35789%	2.28421%	2.21053%	2.13684%	2.06316%
	2.43%	2.36%	2.28%	2.21%	2.14%	2.06%
15	2.605263%	2.52632%	2.44737%	2.36842%	2.28947%	2.21053%
	2.61%	2.53%	2.45%	2.37%	2.29%	2.21%
16	2.778947%	2.69474%	2.61053%	2.52632%	2.44211%	2.35789%
	2.78%	2.69%	2.61%	2.53%	2.44%	2.36%
17	2.952632%	2.86316%	2.77368%	2.68421%	2.59474%	2.50526%
	2.95%	2.86%	2.77%	2.68%	2.59%	2.51%
18	3.126316%	3.03158%	2.93684%	2.84211%	2.74737%	2.65263%
	3.13%	3.03%	2.94%	2.84%	2.75%	2.65%
19	3.300000%	3.20000%	3.10000%	3.00000%	2.90000%	2.80000%
	3.30%	3.20%	3.10%	3.00%	2.90%	2.80%
20	3.473684%	3.36842%	3.26316%	3.15789%	3.05263%	2.94737%
	3.47%	3.37%	3.26%	3.16%	3.05%	2.95%

21	3.647368% 3.65%	3.53684% 3.54%	3.42632% 3.43%	3.31579% 3.32%	3.20526% 3.21%	3.09474% 3.09%
22	3.821053% 3.82%	3.70526% 3.71%	3.58947% 3.59%	3.47368% 3.47%	3.35789% 3.36%	3.24211% 3.24%
23	3.994737% 3.99%	3.87368% 3.87%	3.75263% 3.75%	3.63158% 3.63%	3.51053% 3.51%	3.38947% 3.39%
24	4.168421% 4.17%	4.04211% 4.04%	3.91579% 3.92%	3.78947% 3.79%	3.66316% 3.66%	3.53684% 3.54%
25	4.342105% 4.34%	4.21053% 4.21%	4.07895% 4.08%	3.94737% 3.95%	3.81579% 3.82%	3.68421% 3.68%
26	4.515789% 4.52%	4.37895% 4.38%	4.24211% 4.24%	4.10526% 4.11%	3.96842% 3.97%	3.83158% 3.83%
27	4.689474% 4.69%	4.54737% 4.55%	4.40526% 4.41%	4.26316% 4.26%	4.12105% 4.12%	3.97895% 3.98%
N1	4.863158% 4.86%	4.71579% 4.72%	4.56842% 4.57%	4.42105% 4.42%	4.27368% 4.27%	4.12632% 4.13%
N2	5.036842% 5.04%	4.88421% 4.88%	4.73158% 4.73%	4.57895% 4.58%	4.42632% 4.43%	4.27368% 4.27%
N3	5.210526% 5.21%	5.05263% 5.05%	4.89474% 4.89%	4.73684% 4.74%	4.57895% 4.58%	4.42105% 4.42%
N4	5.384211% 5.38%	5.22105% 5.22%	5.05789% 5.06%	4.89474% 4.89%	4.73158% 4.73%	4.56842% 4.57%
N5	5.557895% 5.56%	5.38947% 5.39%	5.22105% 5.22%	5.05263% 5.05%	4.88421% 4.88%	4.71579% 4.72%
N6	5.731579% 5.73%	5.55789% 5.56%	5.38421% 5.38%	5.21053% 5.21%	5.03684% 5.04%	4.86316% 4.86%
N7	5.905263% 5.91%	5.72632% 5.73%	5.54737% 5.55%	5.36842% 5.37%	5.18947% 5.19%	5.01053% 5.01%
N8	6.078947% 6.08%	5.89474% 5.89%	5.71053% 5.71%	5.52632% 5.53%	5.34211% 5.34%	5.15789% 5.16%
N9	6.252632% 6.25%	6.06316% 6.06%	5.87368% 5.87%	5.68421% 5.68%	5.49474% 5.49%	5.30526% 5.31%
N10	6.426316% 6.43%	6.23158% 6.23%	6.03684% 6.04%	5.84211% 5.84%	5.64737% 5.65%	5.45263% 5.45%
N11	6.600000% 6.60%	6.40000% 6.40%	6.20000% 6.20%	6.00000% 6.00%	5.80000% 5.80%	5.60000% 5.60%

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

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

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

(3) Whenever an employing unit, whether or not it is an "employing unit" within the meaning of K.S.A. 44-703(g), and amendments thereto, acquires or in any manner succeeds to a percentage of an employer's annual payroll which is less than 100% and intends to continue the acquired percentage as a going business, the employing unit may acquire the same percentage of the predecessor's experience factors if: (A) The predecessor employer and successor employing unit make an application in writing on the form prescribed by the secretary; (B) the application is submitted within 120 days of the

date of the transfer; (C) the successor employing unit is or becomes an employer subject to this act immediately after the transfer; (D) the percentage of the experience rating factors transferred shall not be thereafter used in computing the contribution rate for the predecessor employer; and (E) the secretary finds that such transfer will not tend to defeat or obstruct the object and purposes of this act.

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

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

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

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

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

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

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

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

circumstances shall voluntary payments be refunded in whole or in part.

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

(e) There is hereby established in the state treasury, separate and apart from all public moneys or funds of this state, an employment security interest assessment fund, which shall be administered by the secretary as provided in this act. Moneys in the employment security fund established by K.S.A. 44-712, and amendments thereto, and employment security interest assessment fund established by K.S.A. 44-710, and amendments thereto, shall not be invested in the pooled money investment portfolio established under K.S.A. 75-4234, and amendments thereto. Notwithstanding the provisions of K.S.A. 44-712(a), K.S.A. 44-716, K.S.A. 44-717 and K.S.A. 75-4234, and amendments thereto, or any like provision the secretary shall remit all moneys received from employers pursuant to the interest payment pursuant to law, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the employment security interest assessment fund. All moneys in this fund which are received from employers pursuant to the interest payment assessments shall be expended solely for the purposes and in the amounts found by the secretary necessary to pay any principal and interest due and owing the United States department of labor resulting from any advancements made to the Kansas employment security fund pursuant to the provisions of title XII of the social security act (42 U.S.C. §§ 1321 to 1324) except as may be otherwise provided under subsection (a)(2)(D). Notwithstanding any provision of this section, all moneys received and credited to this fund shall remain part of the employment security interest assessment fund and shall be used only in accordance with the conditions specified.

(f) The secretary of labor shall annually prepare and submit a certification as to the solvency and adequacy of the amount credited to the state of Kansas' account in the federal employment security trust fund to the governor and the legislative coordinating council. The certification shall be submitted on or before December 1 of each calendar year and shall be for the 12-month period ending on June 30 of that calendar year. In arriving at the certification contributions paid on or before July 31 following the 12-month period ending date of June 30 shall be considered.

Sec. 9. K.S.A. 44-775 is hereby amended to read as follows: 44-775. (a) (1) The secretary of labor and the secretary of commerce shall jointly establish and implement the my reemployment plan as provided in this section. For purposes of this section, "my reemployment plan" means a program jointly established and implemented by the Kansas department of labor and the Kansas department of commerce that provides enhanced reemployment services, including workforce services provided by the department of commerce, to Kansans receiving unemployment insurance benefits. The program shall be ~~available to~~ *required for* all claimants except claimants ~~in the shared work program or trade readjustment assistance program or claimants on temporary layoff with a return-to-work date in the shared work program, trade adjustment assistance and trade readjustment assistance program, claimants on temporary layoff with a return-to-work date but such claimants shall only be excepted during any first 8 consecutive weeks of benefits, claimants that are currently employed, claimants that are current reemployment services and eligibility assessment participants, claimants that are active members in good standing of a placement union or claimants that are engaged in a training program.~~ The program shall be implemented on or before June 1, 2021.

(2) The secretary of labor shall provide the secretary of commerce with the names and contact information of claimants that have claimed ~~three continuous weeks~~ *a third week* of benefits ~~in the current benefit year.~~ The secretary of ~~commerce labor~~ shall request ~~the claimant to upload or create a complete resume or work history, a skills list in the Kansasworks workforce system, and complete a job search plan from~~

~~the claimants and that includes a skills assessment component. The secretary of commerce shall offer and provide, when requested, assistance to the claimants in developing the documents or plan through collaboration by the secretary with the Kansas works Kansasworks workforce system. The secretary of commerce may require claimants to participate in reemployment services.~~ The claimant shall have ~~seven~~ 14 calendar days to respond to the secretary of commerce. The secretary of commerce shall report any failure to respond by the claimant to the secretary of labor.

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

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

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

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

(c) Claimants who participate in the my reemployment plan or the work skills training or retraining program shall meet attendance or progress requirements established by the secretary of commerce to continue eligibility for unemployment insurance benefits. Non-compliant claimants shall be reported by the secretary of commerce to the secretary of labor. The secretary of labor shall disqualify such claimants from further benefits within five business days of receiving the report, unless or until the claimant demonstrates compliance to the secretary of commerce, and shall communicate the disqualification and the reason for the disqualification to the claimant. The secretary of commerce shall report to the secretary of labor when the claimant has reestablished compliance. The secretary of labor may continue benefits or reinstate a claimant's eligibility for benefits upon a showing of good cause by the claimant for the failure to meet attendance or progress

requirements or my reemployment plan participation requirements.

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

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

Sec. 10. K.S.A. 44-703, 44-710a and 44-775 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

HOUSE adopted
Conference Committee Report_____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report_____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.