Substitute for HOUSE BILL No. 2570

AN ACT concerning employment security law; relating to the definition of benefit year, temporary unemployment, wages subject to assessment for employer contributions, statewide average annual wage and statewide average weekly wage; referencing certain new definitions for purposes of the annual determination by the secretary of the maximum weekly benefit amount; requiring electronic filing of wage reports, contribution returns and payments and interest assessments for employers with 25 or more employees; establishing minimum qualifications for candidates for membership on the employment security board of review and initial review of such candidates by the director of unemployment; extending when the mandatory combination of rates and the establishment of a new account due to a business acquisition must occur from the beginning of the following quarter to the beginning of the following year; replacing and making certain changes to the schedules governing employer contribution rates; lowering the contribution rate for new employers and new employers engaged in the construction industry; removing obsolete language pertaining to the employment security interest assessment fund and abolishing such fund; requiring the secretary to create an audit process within the new unemployment insurance information technology system to permit employers to submit reports regarding work search, the my reemployment plan and claimants who do not provide notification or appear for scheduled interviews; providing for notices by the secretary to active employers regarding work search noncompliance reporting options; confirming the legislative coordinating council's authority to extend the new unemployment insurance information technology system's implementation date retroactively and as often as deemed appropriate by the council; requiring the secretary to notify the council of the need for an extension; authorizing the secretary to extend temporary unemployment when requested by employers engaged in certain industries; requiring the secretary to post on the secretary's website certain calculations and data, prepare an annual certification memorandum and publish contribution rate information and schedules; changing the timing of employer benefit charge notices from annually to quarterly; removing the exemption for benefit charges less than $100; providing that school bus drivers employed by private contractors are eligible for workshare; allowing a calculated write off for negative account balance employers by the secretary of such employer's negative reserve account balance; providing that the secretary suspend state unemployment benefits for claimants who are receiving federal unemployment benefits; amending K.S.A. 44-704, 44-705, 44-706, 44-709, 44-710, 44-710b, 44-717, 44-757, 44-771, 44-772 and 44-774 and K.S.A. 2023 Supp. 44-703, 44-710a and 44-775 and repealing the existing sections.

WHEREAS, The amendments made to the employment security law by this act shall be known as the Kansas unemployment insurance state trust fund solvency, system integrity and tax credit preservation act of 2024.

Now, therefore:

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

Section 1. K.S.A. 2023 Supp. 44-703 is hereby amended to read as follows: 44-703. As used in this act, unless the context clearly requires otherwise:

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

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

(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 *subsection (hh) and* 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~~ *Sunday* 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~~ *Sunday* 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 a state

or any instrumentality thereof, any political subdivision of 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 ⅔ or more of the partners are residents of the United States;

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

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

(I) Notwithstanding subsection (i)(2), 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 ½ or more of any pay period by an individual for the person employing such individual constitute employment, all the services of such individual for such period shall be deemed to be employment; but if the services performed during more than ½ of any such pay period by an individual for the person employing such individual do not constitute employment, then none of the services of such individual for such period shall be deemed to be employment. As used in this subsection (i)(4)(H) the term "pay period" means a period, of not more than 31 consecutive days, for which a payment of remuneration is ordinarily made to the individual by the person employing such individual. This subsection (i)(4)(H) shall not be applicable with respect to services with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of congress;

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

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

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

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

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

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

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

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

(O) services performed by an individual who is enrolled at a nonprofit or public educational institution 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) *For calendar years 2016 through 2025,* 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~~ *employment during calendar years 2016 through 2025*, 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) (A) For the calendar year as set forth below, except as provided by subparagraph (B), for contributing rated employers assigned rate groups 0-N11, 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 the specified percentage of the statewide average annual wage paid to employees in insured work during the previous calendar year and rounded to the nearest multiple of $100:

(i) Calendar years 2026 through 2027, 25%;

(ii) calendar year 2028, 30%;

(iii) calendar year 2029, 35%;

(iv) calendar years 2030 through 2031, 40%; and

(v) calendar year 2032 and all ensuing calendar years thereafter:

(a) 40%, except as provided in subclause (b); and

(b) 45% if any combination of employer rate schedules G through M, as provided in K.S.A. 44-710a(a)(4)(C), and amendments thereto, is in effect for any five consecutive preceding calendar years occurring after calendar year 2031. The specified percentage of 45% shall then remain in effect for all ensuing calendar years thereafter notwithstanding any changes to the employer rate schedules in effect during such ensuing calendar years.

(B) If the definition of the term "wages" as contained in the federal unemployment tax act is amended to include the remuneration paid to an individual by an employer under the federal act in excess of the amount calculated pursuant to subparagraph (A), then with respect to employment during all calendar years thereafter, wages shall include the 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.

(C) For purposes of subparagraphs (A) and (B):

(i) "Employment" includes service constituting employment under any employment security law of another state or of the federal government; and

(ii) "statewide average annual wage" means the statewide average annual wage as defined by subsection (jj) and computed by the secretary on July 1 each year, as provided by K.S.A. 44-704, and amendments thereto;

~~(2)~~*(3)* 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)~~*(4)* 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)~~*(5)* 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)~~*(6)* 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)~~*(7)* 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)~~*(8)* 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)~~*(9)* 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)~~*(10)* remuneration for agricultural labor paid in any medium other than cash;

~~(10)~~*(11)* 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)~~*(12)* 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)~~*(13)* 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)~~*(14)* 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)~~*(15)* 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)~~*(16)* 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~~ *paragraphs* (1) *and (2)*, 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)~~ *(o)(5)*.

(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.

(ii) "Temporary unemployment," "temporarily unemployed" or "temporary layoff" means that the individual has been laid off due to lack of work by an employing unit for which the individual has most recently worked full time and for which the individual reasonably expects to resume full-time work at a future date within eight weeks, and that the individual's employment with the employing unit, although temporarily suspended, has not been terminated. Except as otherwise provided by K.S.A. 44-775(a)(3), and amendments thereto, "temporary unemployment" shall not exceed eight consecutive weeks. An extension of additional weeks of temporary unemployment at the request of an employer for an individual may be granted by the secretary as provided by K.S.A. 44-775(a)(3), and amendments thereto. The maximum amount of temporary unemployment for an individual in a benefit year, including any extension granted by the secretary, shall be as provided by K.S.A. 44-775(a)(3), and amendments thereto.

(jj) "Statewide average annual wage" or "SAAW" means the quotient, obtained by dividing gross wages by average monthly covered employment for the same determination period, rounded to the nearest

cent.

(kk) "Statewide average weekly wage" or "SAWW" means the quotient, obtained by dividing the statewide average annual wage by 52, rounded to the nearest cent.

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

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

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

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

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

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

~~(2)~~ For initial claims effective on or after July 1, ~~2015~~ *2024*, the maximum weekly benefit amount shall be determined as follows: On July 1 of each year, the secretary shall determine the maximum weekly benefit amount by computing 55% of the *statewide* average weekly wages paid to employees in insured work during the previous calendar year~~, but not to be less than $474,~~ and shall, prior to that date, announce the maximum weekly benefit amount so determined by publication in the Kansas register. Such computation *of the statewide average weekly wage* shall be made by dividing the ~~gross wages reported as paid for insured work during the previous calendar year by the product of the average of mid-month employment during such calendar year~~

~~multiplied~~ *statewide average annual wage, as defined in K.S.A. 44-703(jj), and amendments thereto, determined for the period of the previous calendar year,* by 52*, as set forth by K.S.A. 44-703(kk), and amendments thereto*. The maximum weekly benefit amount so determined and announced for the 12-month period shall apply only to those claims filed in that period qualifying for maximum payment under the foregoing formula. All claims qualifying for payment at the maximum weekly benefit amount shall be paid at the maximum weekly benefit amount in effect when the benefit year to which the claim relates was first established, notwithstanding a change in the maximum benefit amount for a subsequent 12-month period. If the computed maximum weekly benefit amount is not a multiple of $1, then the computed maximum weekly benefit amount shall be reduced to the next lower multiple of $1.

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

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

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

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

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

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

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

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

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

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

(D) moneys received as federal social security payments.

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

continue to provide to the employee after the last day that the employee worked for that employer.

(g) *Duration of benefits*. Any otherwise eligible individual shall be entitled during any benefit year to a total amount of benefits equal to whichever is the lesser of 26 times such individual's weekly benefit amount, or $^1/_3$ of such individual's wages for insured work paid during such individual's base period. Such total amount of benefits, if not a multiple of $1, shall be reduced to the next lower multiple of $1.

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

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

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

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

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

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

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

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

shall be eligible for a maximum of 26 weeks of benefits.

(2) The maximum number of weeks of benefits allowed in a benefit year pursuant to paragraph (1) shall apply to the combined total of any weeks of traditional and temporary unemployment in such benefit year.

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

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

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

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

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

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

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

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

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

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

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

(2) The secretary shall develop and implement procedures to address claimants who refuse to return to suitable work or refuse to accept an offer of suitable work without good cause. Such procedures shall include the receipt and processing of job refusal reports from employers, the evaluation of such reports in consideration of the claimant's work history and skills and suitability of the offered employment and guidelines for a determination of whether the claimant shall remain eligible for unemployment benefits or has failed to meet

the work search requirements of this subsection or the requirements of K.S.A. 44-706(c), and amendments thereto. In determining whether the employment offered is suitable, the secretary's considerations shall include whether the employment offers wages comparable to the claimant's recent employment and work duties that correspond to the claimant's education level and previous work experience. The secretary shall also consider whether the employment offers wages of at least the amount of the claimant's maximum weekly benefits.

(3) To facilitate the requirements of paragraph (2), the secretary shall provide readily accessible means for employers to notify the department when a claimant refuses to return to work or refuses an offer of employment, including by telephone, email or an online web portal. *The secretary shall create or cause to be created in the new unemployment insurance information technology system as provided by K.S.A. 44-772, and amendments thereto, an audit process for employers to submit reports regarding activities related to the work search requirement or to the my reemployment plan, established by K.S.A. 44-775, and amendments thereto, and applicants that accept interview appointments but do not participate or notify the interviewing employer of their inability to participate in the scheduled interview. The secretary shall not be required to implement such audit process prior to January 1, 2026.* Nothing in this subsection shall be construed as to require an employer to ~~report~~ *notify the department of* such job refusals *or such failures to appear for a scheduled interview without notifying the interviewing employer* to the department.

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

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

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

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

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

(5) The secretary shall include notices to all active employers regarding work search noncompliance reporting options provided in paragraph (3) in the department of labor's annual summary of benefit charges pursuant to K.S.A. 44-710b(d), and amendments thereto, and in the rate notices to employers pursuant to K.S.A. 44-710b(a), and amendments thereto. The secretary shall not be required to implement such notice requirements prior to the completion of the new unemployment insurance information technology system, as provided by K.S.A. 44-772, and amendments thereto.

~~(5)~~*(6)* For the purposes of this subsection, an inmate of a custodial or correctional institution shall be deemed to be unavailable for work and not eligible to receive unemployment compensation while incarcerated.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 4. K.S.A. 44-706 is hereby amended to read as follows: 44-706. The secretary shall examine whether an individual has separated from employment for each week claimed. The secretary shall apply the provisions of this section to the individual's most recent employment prior to the week claimed. An individual shall be disqualified for benefits:

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

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

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

(3) the individual left work to enlist in the armed forces of the United States, but was rejected or delayed from entry;

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

(5) the individual left work because of hazardous working conditions; in determining whether or not working conditions are

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

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

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

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

(9) the individual left work as a result of being instructed or requested by the employer, a supervisor or a fellow employee to perform a service or commit an act in the scope of official job duties which is in violation of an ordinance or statute;

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

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

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

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

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

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

(iv) the individual's need to leave employment as a condition of receiving services or shelter from an agency which provides support

services or shelter to victims of domestic violence; or

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

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

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

(ii) a police record documenting the abuse;

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

(iv) medical documentation of the abuse;

(v) a statement provided by a counselor, social worker, health care provider, clergy, shelter worker, legal advocate, domestic violence or sexual assault advocate or other professional who has assisted the individual in dealing with the effects of abuse on the individual or the individual's family; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The test was either:

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

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

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

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

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

(b) the test sample was collected either:

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

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

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

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

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

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

personnel;

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

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

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

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

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

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

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

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

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

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

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

(C) For purposes of this subsection:

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

(ii) "alcoholic liquor" means the same as provided in K.S.A. 41-102, and amendments thereto;

(iii) "cereal malt beverage" means the same as provided in K.S.A. 41-2701, and amendments thereto;

(iv) "chemical test" includes, but is not limited to, tests of urine, blood or saliva;

(v) "controlled substance" means the same as provided in K.S.A. 21-5701, and amendments thereto;

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

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

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

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

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

(B) the individual was making a good-faith effort to do the assigned work but was discharged due to:

(i) Inefficiency;

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

(iii) isolated instances of ordinary negligence or inadvertence;

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

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

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

(c) If the individual has failed, without good cause, to either apply for suitable work when so directed by the employment office of the secretary of labor, or to accept suitable work when offered to the individual by the employment office, the secretary of labor, or an employer, such disqualification shall begin with the week in which such failure occurred and shall continue until the individual becomes reemployed and has had earnings from insured work of at least three times such individual's determined weekly benefit amount. In determining whether or not any work is suitable for an individual, the secretary of labor, or a person or persons designated by the secretary, shall consider the degree of risk involved to health, safety and morals, physical fitness and prior training, experience and prior earnings, length of unemployment and prospects for securing local work in the individual's customary occupation or work for which the individual is reasonably fitted by training or experience, and the distance of the available work from the individual's residence. Notwithstanding any other provisions of this act, an otherwise eligible individual shall not be disqualified for refusing an offer of suitable employment, or failing to apply for suitable employment when notified by an employment office, or for leaving the individual's most recent work accepted during approved training, including training approved under section 236(a)(1) of the trade act of 1974, if the acceptance of or applying for suitable employment or continuing such work would require the individual to terminate approved training and no work shall be deemed suitable and benefits shall not be denied under this act to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (1) If the position offered is vacant due directly to a strike, lockout or other labor dispute; (2) if the remuneration, hours or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (3) if as a condition of being employed, the individual would be required to

join or to resign from or refrain from joining any labor organization; and (4) if the individual left employment as a result of domestic violence, and the position offered does not reasonably accommodate the individual's physical, psychological, safety, or legal needs relating to such domestic violence.

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

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

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

(g) If the individual, or another in such individual's behalf with the knowledge of the individual, has knowingly made a false statement or representation, or has knowingly failed to disclose a material fact to obtain or increase benefits under this act or any other unemployment compensation law administered by the secretary of labor, unless the individual has repaid the full amount of the overpayment as determined by the secretary or the secretary's designee, including, but not limited to, the total amount of money erroneously paid as benefits or unlawfully obtained, interest, penalties and any other costs or fees provided by law. If the individual has made such repayment, the individual shall be disqualified for a period of one year for the first occurrence or five years for any subsequent occurrence, beginning with the first day following the date the department of labor confirmed the individual has successfully repaid the full amount of the overpayment. In addition to the penalties set forth in K.S.A. 44-719, and amendments thereto, an individual who has knowingly made a false statement or representation or who has knowingly failed to disclose a material fact

to obtain or increase benefits under this act or any other unemployment compensation law administered by the secretary of labor shall be liable for a penalty in the amount equal to 25% of the amount of benefits unlawfully received. Notwithstanding any other provision of law, such penalty shall be deposited into the employment security trust fund. No person who is a victim of identify theft shall be subject to the provisions of this subsection. The secretary shall investigate all cases of an alleged false statement or representation or failure to disclose a material fact to ensure no victim of identity theft is disqualified, required to repay or subject to any penalty as provided by this subsection as a result of identity theft.

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

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

(j) For any week of unemployment on the basis of service in any capacity other than service in an instructional, research, or administrative capacity in an educational institution, as defined in K.S.A. 44-703(v), and amendments thereto, if such week begins during the period between two successive academic years or terms if the individual performs such services in the first of such academic years or terms and there is a reasonable assurance that the individual will perform such services in the second of such academic years or terms, except that if benefits are denied to the individual under this subsection and the individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this subsection.

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

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

(m) For any week on the basis of services performed by an alien

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

(n) For any week in which an individual is receiving a governmental or other pension, retirement or retired pay, annuity or other similar periodic payment under a plan maintained by a base period employer and to which the entire contributions were provided by such employer, except that: (1) If the entire contributions to such plan were provided by the base period employer but such individual's weekly benefit amount exceeds such governmental or other pension, retirement or retired pay, annuity or other similar periodic payment attributable to such week, the weekly benefit amount payable to the individual shall be reduced, but not below zero, by an amount equal to the amount of such pension, retirement or retired pay, annuity or other similar periodic payment which is attributable to such week; or (2) if only a portion of contributions to such plan were provided by the base period employer, the weekly benefit amount payable to such individual for such week shall be reduced, but not below zero, by the prorated weekly amount of the pension, retirement or retired pay, annuity or other similar periodic payment after deduction of that portion of the pension, retirement or retired pay, annuity or other similar periodic payment that is directly attributable to the percentage of the contributions made to the plan by such individual; or (3) if the entire contributions to the plan were provided by such individual, or by the individual and an employer, or any person or organization, who is not a base period employer, no reduction in the weekly benefit amount payable to the individual for such week shall be made under this subsection; or (4) whatever portion of contributions to such plan were provided by the base period employer, if the services performed for the employer by such individual during the base period, or remuneration received for the services, did not affect the individual's eligibility for, or increased the amount of, such pension, retirement or retired pay, annuity or other similar periodic payment, no reduction in the weekly benefit amount payable to the individual for such week shall be made under this subsection. No reduction shall be made for payments made under the social security act or railroad retirement act of 1974.

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

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

defined in K.S.A. 44-703(v), and amendments thereto, if such week begins during the period between two successive academic years or during a similar period between two regular terms, whether or not successive, if the individual has a contract or contracts, or a reasonable assurance thereof, to perform services in any such capacity with a private contractor for any educational institution for both such academic years or both such terms. An individual shall not be disqualified for benefits as provided in this subsection for any week of unemployment*:*

(1) That the individual is a participating employee in a short-term compensation program established pursuant to K.S.A. 44-757, and amendments thereto; or

(2) on the basis of service as a bus or other motor vehicle driver employed by a private contractor to transport persons to or from nonschool-related functions or activities.

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

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

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

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

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

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

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

(2) If an employer chooses to withhold from a back pay award or settlement, amounts paid to a claimant while they claimed unemployment benefits, such employer shall pay the department the amount withheld. With respect to such amount, the secretary shall have available all of the collection remedies authorized or provided in K.S.A. 44-717, and amendments thereto.

(t) (1) Any applicant for or recipient of unemployment benefits who tests positive for unlawful use of a controlled substance or controlled substance analog shall be required to complete a substance abuse treatment program approved by the secretary of labor, secretary of commerce or secretary for children and families, and a job skills program approved by the secretary of labor, secretary of commerce or

the secretary for children and families. Subject to applicable federal laws, any applicant for or recipient of unemployment benefits who fails to complete or refuses to participate in the substance abuse treatment program or job skills program as required under this subsection shall be ineligible to receive unemployment benefits until completion of such substance abuse treatment and job skills programs. Upon completion of both substance abuse treatment and job skills programs, such applicant for or recipient of unemployment benefits may be subject to periodic drug screening, as determined by the secretary of labor. Upon a second positive test for unlawful use of a controlled substance or controlled substance analog, an applicant for or recipient of unemployment benefits shall be ordered to complete again a substance abuse treatment program and job skills program, and shall be terminated from unemployment benefits for a period of 12 months, or until such applicant for or recipient of unemployment benefits completes both substance abuse treatment and job skills programs, whichever is later. Upon a third positive test for unlawful use of a controlled substance or controlled substance analog, an applicant for or a recipient of unemployment benefits shall be terminated from receiving unemployment benefits, subject to applicable federal law.

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

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

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

Sec. 5. K.S.A. 44-709 is hereby amended to read as follows: 44-709. (a) *Filing*. Claims for benefits shall be made in accordance with rules and regulations adopted by the secretary. The secretary shall furnish a copy of such rules and regulations to any individual requesting them. Each employer shall: (1) Post and maintain printed statements furnished by the secretary without cost to the employer in places readily accessible to individuals in the service of the employer; and (2) provide any other notification to individuals in the service of the employer as required by the secretary pursuant to the families first coronavirus response act, public law 116-127.

(b) *Determination*. (1) Except as otherwise provided in this paragraph, a representative designated by the secretary, and hereinafter referred to as an examiner, shall promptly examine the claim and, on the basis of the facts found by the examiner, shall determine whether or not the claim is valid. If the examiner determines that the claim is valid, the examiner shall determine the first day of the benefit year, the

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

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

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

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

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

(e) *Time, computation and extension*. In computing the period of time for an employing unit response or for appeals under this section from the examiner's or the special examiner's determination or from the

referee's decision, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday or legal holiday.

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

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

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

(2) *(A)* When a vacancy on the employment security board of review occurs, the workers compensation and employment security boards nominating committee established under K.S.A. 44-551, and amendments thereto, shall convene and submit a *qualified* nominee to the governor for appointment to each vacancy on the employment security board of review, subject to confirmation by the senate as provided by K.S.A. 75-4315b, and amendments thereto. *Minimum qualifications for qualified candidates for appointment to the employment security board of review, in order of priority, shall be:*

(i) At least eight years direct experience with human resources processes, polices, guidelines or employee relations;

(ii) at least three years direct experience with employment security laws and processes; and

(iii) knowledge of unemployment and labor laws.

(B) Applications for employment security board of review positions shall be submitted to the director of unemployment. The director shall determine if an applicant meets the qualifications for an employment security review board member as prescribed in paragraph (A). Qualified applicants for a position of employment security review board member shall be submitted by the director to the workers compensation and employment security boards nominating committee for consideration. The workers compensation and employment security boards nominating committee shall nominate a candidate for consideration by the governor.

(C) The governor shall either~~: (A)~~ accept and submit to the senate for confirmation the person nominated by the nominating committee~~;~~ or ~~(B)~~ reject the nomination and request the nominating committee to nominate another person for that position. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed to the employment security board of review, whose appointment is subject to confirmation by the senate, shall exercise any power, duty or function as a member until confirmed by the senate.

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

(4) Each member of the employment security board shall serve until a successor has been appointed and confirmed. Any vacancy in the

membership of the board occurring prior to expiration of a term shall be filled by appointment for the unexpired term in the same manner as provided for original appointment of the member.

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

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

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

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

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

(h) *Witness fees*. Witnesses subpoenaed pursuant to this section shall be allowed fees and necessary travel expenses at rates fixed by the

board. Such fees and expenses shall be deemed a part of the expense of administering this act.

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

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

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

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

(b) *Rates and base of contributions.* (1) Except as provided in paragraph (2), each contributing employer shall pay contributions on

wages paid by the contributing employer during each calendar year with respect to employment as provided in K.S.A. 44-710a, and amendments thereto. ~~Except that, notwithstanding the federal law requiring the secretary of labor to annually recalculate the contribution rate, for calendar years 2010, 2011, 2012, 2013 and 2014, the secretary shall charge each contributing employer in rate groups 1 through 32 the contribution rate in the 2010 original tax rate computation table, with contributing employers in rate groups 33 through 51 being capped at a 5.4% contribution rate. For calendar year 2021, unemployment tax rates for eligible employers shall be limited to the standard rate schedule in K.S.A. 44-710a, and amendments thereto. Therefore, no additional solvency adjustment shall be applied.~~

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

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

(2) (A) Benefits paid in benefit years established by valid new claims shall not be charged to the account of a contributing employer or

rated governmental employer who is a base period employer if the examiner finds that claimant was separated from the claimant's most recent employment with such employer under any of the following conditions: (i) Discharged for misconduct or gross misconduct connected with the individual's work; (ii) leaving work voluntarily without good cause attributable to the claimant's work or the employer; or (iii) discharged from an employer directly impacted by COVID-19 in accordance with the families first coronavirus response act, public law 116-127.

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

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

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

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

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

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

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

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

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

~~(H) No contributing employer or rated governmental employer's~~

~~account shall be charged with respect to their pro rata share of benefit charges if such charges are of $100 or less.~~

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

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

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

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

(C) For purposes of this paragraph:

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

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

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

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

(4) The examiner shall notify any base period employer whose account will be charged with benefits paid following the filing of a valid new claim and a determination by the examiner based on all information relating to the claim contained in the records of the division of employment security. Such notice shall become final and benefits charged to the base period employer's account in accordance with the claim unless within 10 calendar days from the date the notice was sent, the base period employer requests in writing that the examiner reconsider the determination and furnishes any required information in accordance with the secretary's rules and regulations. In a similar manner, a notice of an additional claim followed by the first payment of benefits with respect to the benefit year, filed by an individual during a benefit year after a period in such year during which such individual was employed, shall be given to any base period

employer of the individual who has requested such a notice within 10 calendar days from the date the notice of the valid new claim was sent to such base period employer. For purposes of this ~~subsection (e)(3)~~ *paragraph*, if the required information is not submitted or postmarked within a response time limit of 10 days after the base period employer notice was sent, the base period employer shall be deemed to have waived its standing as a party to the proceedings arising from the claim and shall be barred from protesting any subsequent decisions about the claim by the secretary, a referee, the board of review or any court, except that the base period employer's response time limit may be waived or extended by the examiner or upon appeal, if timely response was impossible due to excusable neglect. The examiner shall notify the employer of the reconsidered determination, which shall be subject to appeal or further reconsideration, in accordance with the provisions of K.S.A. 44-709, and amendments thereto.

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

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

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

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

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

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

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

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

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

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

(A) At the end of each calendar quarter, or at the end of any other period as determined by the secretary, the secretary shall bill each reimbursing employer, except the state of Kansas: (i) An amount to be paid that is equal to the full amount of regular benefits plus ½ of the amount of extended benefits paid during such quarter or other prescribed period that is attributable to service in the employ of such reimbursing employer; and (ii) for weeks of unemployment beginning after December 31, 1978, each reimbursing governmental employer and December 21, 2000, for Indian tribes or tribal units shall be certified an amount to be paid that is equal to the full amount of regular benefits and extended benefits paid during such quarter or other prescribed period that is attributable to service in the employ of such reimbursing governmental employer.

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

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

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

reimbursing employer files an application for redetermination in accordance with K.S.A. 44-710b, and amendments thereto.

(E) *(i)* Past due payments of amounts certified by the secretary under this section shall be subject to the same interest, penalties and actions required by K.S.A. 44-717, and amendments thereto. ~~(1)~~

(ii) If any nonprofit organization or group of nonprofit organizations described in section 501(c)(3) of the federal internal revenue code of 1986 or governmental reimbursing employer is delinquent in making payments of amounts certified by the secretary under this section, the secretary may terminate such employer's election to make payments in lieu of contributions as of the beginning of the next calendar year and such termination shall be effective for such next calendar year and the calendar year thereafter so that the termination is effective for two complete calendar years. ~~(2)~~

(iii) Failure of ~~the~~ *an* Indian tribe or tribal unit to make required payments, including assessment of interest and penalty within 90 days of receipt of ~~the~~ *a* bill ~~will~~ *shall* cause the Indian tribe to lose the option to make payments in lieu of contributions as described pursuant to paragraph (e)(1) for the following tax year unless payment in full is received before contribution rates for the next tax year are calculated. ~~(3)~~ Any Indian tribe that loses the option to make payments in lieu of contributions due to late payment or nonpayment, as described in *this* paragraph ~~(2)~~, shall have such option reinstated, if after a period of one year, all contributions have been made on time and no contributions, payments in lieu of contributions for benefits paid, penalties or interest remain outstanding.

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

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

the case of a delinquent employer. If the employer did not pay wages in each of such four calendar quarters, the amount of the bond or deposit shall be as determined by the secretary. Upon the failure of an employer to comply with *the provisions of* this ~~subsection (e)(2)(G)~~ *subparagraph* within the time limits imposed or to maintain the required bond or deposit, the secretary may terminate the election of such eligible employer or delinquent employer, as the case may be, to make payments in lieu of contributions, and such termination shall be effective for the current and next calendar year.

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

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

(A) *Proportionate allocation ~~(~~when fewer than all reimbursing*

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

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

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

Sec. 7. K.S.A. 2023 Supp. 44-710a is hereby amended to read as follows: 44-710a. (a) *Classification of employers by the secretary.* The term "employer" as used in this section refers to contributing employers. The secretary shall classify employers in accordance with their actual experience in the payment of contributions on their own behalf and with respect to benefits charged against their accounts with a view of fixing such contribution rates as will reflect such experience. If, as of the date such classification of employers is made, the secretary finds that any employing unit has failed to file any report required in connection therewith, or has filed a report which the secretary finds incorrect or insufficient, the secretary shall make an estimate of the information required from such employing unit on the basis of the best evidence reasonably available to the secretary at the time, and notify the employing unit thereof by mail addressed to its last known address.

Unless such employing unit shall file the report or a corrected or sufficient report as the case may be, within 15 days after the mailing of such notice, the secretary shall compute such employing unit's rate of contributions on the basis of such estimates, and the rate as so determined shall be subject to increase but not to reduction on the basis of subsequently ascertained information. The secretary shall determine the contribution rate of each employer in accordance with the requirements of this section.

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

(B) (i) (a) Each employer who is not eligible for a rate contribution shall pay contributions equal to ~~2.7%~~ *1.75%* 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%~~ *5.55%*.

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

(ii) (a) Beginning on July 1, 2024, and annually thereafter, active negative rated employers shall be eligible for a calculated negative debt write-off and forgiveness amount as determined pursuant to this subclause. If on any computation date an employer's account registers a negative reserve ratio less than or equal to -7.150%, a portion of benefit charges shall be conditionally forgiven and removed from the employer's account in order to bring the employer's account to a reserve ratio of -7.150%, and the employer shall be assigned to rate group N11, as set forth in subsection (a)(4)(C)(ii) for the next three calendar years.

(b) Negative rated employers affected by the conditional write-off provision pursuant to subclause (a) shall have the option to avoid a negative debt write-off and assignment to rate group N11 for the next three calendar years by submitting a voluntary contribution pursuant to subsection (c) equal to or greater than the amount necessary to establish their account reserve ratio to an amount equal to or greater than -7.149% for the next calendar year.

(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~~ *G* in subsection ~~(a)(4)(B)(ii)~~ *(a)(4)(C)(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) *Contribution Schedules.* 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)~~ *(a)(4)(C)*.

(B) *Published calculated maximum annual tax amounts per employee. The secretary shall publish corresponding contribution amount tables showing the calculated maximum annual cost to contributing rated employers per employee for each rate group. Such contribution amount tables shall be published on a publicly accessible website maintained by the secretary.*

(C) 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)~~ *(a)(4)(C)(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	3	0.25000	0.44999	1.60%	0.04211%	21.05%
Schedules	4	0.45000	0.59999	1.40%	0.03684%	18.42%
(1-6)	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	9	1.30000	1.39999	-1.20%	-0.03158%	-15.79%
Schedules	10	1.40000	1.54999	-1.40%	-0.03684%	-18.42%
(8-13)	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%

Fund Control Table A
For Rate Year 2025 and Ensuing Calendar Years

KS SUTA Tax Rate Schedules	*Lower AHCM Threshold*	*Upper AHCM Threshold*		*Solvency/Credit Adjustment*	*Proportional Solvency/Credit Adjustment*
	M	*-1,000.00000*	*-0.00001*	*2.00%*	*0.05128%*
	L	*0.00000*	*0.24999*	*1.70%*	*0.04359%*
Solvency	*K*	*0.25000*	*0.44999*	*1.40%*	*0.03590%*
Schedules	*J*	*0.45000*	*0.59999*	*1.10%*	*0.02821%*
(H-M)	*I*	*0.60000*	*0.69999*	*0.80%*	*0.02051%*
	H	*0.70000*	*0.74999*	*0.50%*	*0.01282%*
Standard Schedule (G)	*G*	*0.75000*	*1.24999*	*0.00%*	*0.00000%*
	F	*1.25000*	*1.29999*	*-0.50%*	*-0.01282%*
Credit	*E*	*1.30000*	*1.39999*	*-0.80%*	*-0.02051%*
Schedules	*D*	*1.40000*	*1.54999*	*-1.10%*	*-0.02821%*
(A-F)	*C*	*1.55000*	*1.74999*	*-1.40%*	*-0.03590%*
	B	*1.75000*	*1.99999*	*-1.70%*	*-0.04359%*
	A	*2.00000*	*1,000.00000*	*-2.00%*	*-0.05128%*

(ii) ~~(a)~~ Eligible employers shall be classified by rate group according to the standard rate schedule - standard rate schedule ~~7~~ *G* in this ~~section~~ *clause*, 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~~ *2025* and ensuing calendar years, the rate pursuant to standard rate schedule ~~7~~ *G*, solvency schedules ~~1~~ *H* through ~~6~~ *M* or credit schedules ~~8~~ *A* through ~~13~~ *F* shall apply ~~as provided by fund control table B~~ *to contributing employers*.

~~(b) (1) In the event the full transfer of $250,000,000 is not made as provided in K.S.A. 2022 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. 2022 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~~ *G*

Rate Group	Lower Reserve Ratio Limit	Upper Reserve Ratio Limit	Standard Rate
~~1~~*0*	*100.000*	*1,000,000.000*	*0.00%*
1	18.590	~~1,000,000.000~~*99.999*	~~0.20%~~ *0.05%*

2	17.875	18.589	~~0.40%~~*0.10%*
3	17.160	17.874	~~0.60%~~*0.15%*
4	16.445	17.159	~~0.80%~~*0.25%*
5	15.730	16.444	~~1.00%~~*0.35%*
6	15.015	15.729	~~1.20%~~*0.45%*
7	14.300	15.014	~~1.40%~~*0.55%*
8	13.585	14.299	~~1.60%~~*0.70%*
9	12.870	13.584	~~1.80%~~*0.85%*
10	12.155	12.869	~~2.00%~~*1.00%*
11	11.440	12.154	~~2.20%~~*1.15%*
12	10.725	11.439	~~2.40%~~*1.35%*
13	10.010	10.724	~~2.60%~~*1.55%*
14	9.295	10.009	~~2.80%~~*1.75%*
15	8.580	9.294	~~3.00%~~*1.95%*
16	7.865	8.579	~~3.20%~~*2.20%*
17	7.150	7.864	~~3.40%~~*2.45%*
18	6.435	7.149	~~3.60%~~*2.70%*
19	5.720	6.434	~~3.80%~~*2.95%*
20	5.005	5.719	~~4.00%~~ *3.25%*
21	4.290	5.004	~~4.20%~~*3.55%*
22	3.575	4.289	~~4.40%~~*3.85%*
23	2.860	3.574	~~4.60%~~*4.15%*
24	2.145	2.859	~~4.80%~~*4.50%*
25	1.430	2.144	~~5.00%~~*4.85%*
26	0.715	1.429	5.20%
27	0.000	0.714	~~5.40%~~*5.55%*
N1	-0.714	-0.001	~~5.60%~~*5.85%*
N2	-1.429	-0.715	~~5.80%~~*6.15%*
N3	-2.144	-1.430	~~6.00%~~*6.45%*
N4	-2.859	-2.145	~~6.20%~~*6.75%*
N5	-3.574	-2.860	~~6.40%~~*7.00%*
N6	-4.289	-3.575	~~6.60%~~*7.25%*
N7	-5.004	-4.290	~~6.80%~~*7.50%*
N8	-5.719	-5.005	~~7.00%~~*7.75%*
N9	-6.434	-5.720	~~7.20%~~*7.95%*
N10	-7.149	-6.435	~~7.40%~~*8.15%*
N11	-1,000,000.000	-7.150	~~7.60%~~*8.35%*

~~SOLVENCY RATE SCHEDULES (1-6)~~

~~Rate Group~~	~~1~~	~~2~~	~~3~~	~~4~~	~~5~~	~~6~~
~~1~~	~~0.25%~~	~~0.25%~~	~~0.24%~~	~~0.24%~~	~~0.23%~~	~~0.23%~~
~~2~~	~~0.51%~~	~~0.49%~~	~~0.48%~~	~~0.47%~~	~~0.46%~~	~~0.45%~~
~~3~~	~~0.76%~~	~~0.74%~~	~~0.73%~~	~~0.71%~~	~~0.69%~~	~~0.68%~~
~~4~~	~~1.01%~~	~~0.99%~~	~~0.97%~~	~~0.95%~~	~~0.93%~~	~~0.91%~~
~~5~~	~~1.26%~~	~~1.24%~~	~~1.21%~~	~~1.18%~~	~~1.16%~~	~~1.13%~~
~~6~~	~~1.52%~~	~~1.48%~~	~~1.45%~~	~~1.42%~~	~~1.39%~~	~~1.36%~~
~~7~~	~~1.77%~~	~~1.73%~~	~~1.69%~~	~~1.66%~~	~~1.62%~~	~~1.58%~~
~~8~~	~~2.02%~~	~~1.98%~~	~~1.94%~~	~~1.89%~~	~~1.85%~~	~~1.81%~~
~~9~~	~~2.27%~~	~~2.23%~~	~~2.18%~~	~~2.13%~~	~~2.08%~~	~~2.04%~~
~~10~~	~~2.53%~~	~~2.47%~~	~~2.42%~~	~~2.37%~~	~~2.32%~~	~~2.26%~~
~~11~~	~~2.78%~~	~~2.72%~~	~~2.66%~~	~~2.61%~~	~~2.55%~~	~~2.49%~~
~~12~~	~~3.03%~~	~~2.97%~~	~~2.91%~~	~~2.84%~~	~~2.78%~~	~~2.72 %~~
~~13~~	~~3.28%~~	~~3.22%~~	~~3.15%~~	~~3.08%~~	~~3.01%~~	~~2.94%~~

14	3.54%	3.46%	3.39%	3.32%	3.24%	3.17%
15	3.79%	3.71%	3.63%	3.55%	3.47%	3.39%
16	4.04%	3.96%	3.87%	3.79%	3.71%	3.62%
17	4.29%	4.21%	4.12%	4.03%	3.94%	3.85%
18	4.55%	4.45%	4.36%	4.26%	4.17%	4.07%
19	4.80%	4.70%	4.60%	4.50%	4.40%	4.30%
20	5.05%	4.95%	4.84%	4.74%	4.63%	4.53%
21	5.31%	5.19%	5.08%	4.97%	4.86%	4.75%
22	5.56%	5.44%	5.33%	5.21%	5.09%	4.98%
23	5.81%	5.69%	5.57%	5.45%	5.33%	5.21%
24	6.06%	5.94%	5.81%	5.68%	5.56%	5.43%
25	6.32%	6.18%	6.05%	5.92%	5.79%	5.66%
26	6.57%	6.43%	6.29%	6.16%	6.02%	5.88%
27	6.82%	6.68%	6.54%	6.39%	6.25%	6.11%
N1	7.07%	6.93%	6.78%	6.63%	6.48%	6.34%
N2	7.33%	7.17%	7.02%	6.87%	6.72 %	6.56%
N3	7.58%	7.42%	7.26%	7.11%	6.95%	6.79%
N4	7.83%	7.67%	7.51%	7.34%	7.18%	7.02%
N5	8.08%	7.92%	7.75%	7.58%	7.41%	7.24%
N6	8.34%	8.16%	7.99%	7.82%	7.64%	7.47%
N7	8.59%	8.41%	8.23%	8.05%	7.87%	7.69%
N8	8.84%	8.66%	8.47%	8.29%	8.11%	7.92%
N9	9.09%	8.91%	8.72%	8.53%	8.34%	8.15%
N10	9.35%	9.15%	8.96%	8.76%	8.57%	8.37%
N11	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	0.17%	0.17%	0.16%	0.16%	0.15%	0.15%
2	0.35%	0.34%	0.33%	0.32%	0.31%	0.29%
3	0.52%	0.51%	0.49%	0.47%	0.46%	0.44
4	0.69%	0.67%	0.65%	0.63%	0.61%	0.59%
5	0.87%	0.84%	0.82%	0.79%	0.76%	0.74%
6	1.04%	1.01%	0.98%	0.95%	0.92%	0.88%
7	1.22%	1.18%	1.14%	1.11%	1.07%	1.03%
8	1.39%	1.35%	1.31%	1.26%	1.22%	1.18%
9	1.56%	1.52%	1.47%	1.42%	1.37%	1.33%
10	1.74%	1.68%	1.63%	1.58%	1.53%	1.47%
11	1.91%	1.85%	1.79%	1.74%	1.68%	1.62%
12	2.08%	2.02%	1.96%	1.89%	1.83%	1.77%

~~13~~	~~2.26%~~	~~2.19%~~	~~2.12%~~	~~2.05%~~	~~1.98%~~	~~1.92%~~
~~14~~	~~2.43%~~	~~2.36%~~	~~2.28%~~	~~2.21%~~	~~2.14%~~	~~2.06%~~
~~15~~	~~2.61%~~	~~2.53%~~	~~2.45%~~	~~2.37%~~	~~2.29%~~	~~2.21%~~
~~16~~	~~2.78%~~	~~2.69%~~	~~2.61%~~	~~2.53%~~	~~2.44%~~	~~2.36%~~
~~17~~	~~2.95%~~	~~2.86%~~	~~2.77%~~	~~2.68%~~	~~2.59%~~	~~2.51%~~
~~18~~	~~3.13%~~	~~3.03%~~	~~2.94%~~	~~2.84%~~	~~2.75%~~	~~2.65%~~
~~19~~	~~3.30%~~	~~3.20%~~	~~3.10%~~	~~3.00%~~	~~2.90%~~	~~2.80%~~
~~20~~	~~3.47%~~	~~3.37%~~	~~3.26%~~	~~3.16%~~	~~3.05%~~	~~2.95%~~
~~21~~	~~3.65%~~	~~3.54%~~	~~3.43%~~	~~3.32%~~	~~3.21%~~	~~3.09%~~
~~22~~	~~3.82%~~	~~3.71%~~	~~3.59%~~	~~3.47%~~	~~3.36%~~	~~3.24%~~
~~23~~	~~3.99%~~	~~3.87%~~	~~3.75%~~	~~3.63%~~	~~3.51%~~	~~3.39%~~
~~24~~	~~4.17%~~	~~4.04%~~	~~3.92%~~	~~3.79%~~	~~3.66%~~	~~3.54%~~
~~25~~	~~4.34%~~	~~4.21%~~	~~4.08%~~	~~3.95%~~	~~3.82%~~	~~3.68%~~
~~26~~	~~4.52%~~	~~4.38%~~	~~4.24%~~	~~4.11%~~	~~3.97%~~	~~3.83%~~
~~27~~	~~4.69%~~	~~4.55%~~	~~4.41%~~	~~4.26%~~	~~4.12%~~	~~3.98%~~
~~N1~~	~~4.86%~~	~~4.72%~~	~~4.57%~~	~~4.42%~~	~~4.27%~~	~~4.13%~~
~~N2~~	~~5.04%~~	~~4.88%~~	~~4.73%~~	~~4.58%~~	~~4.43%~~	~~4.27%~~
~~N3~~	~~5.21%~~	~~5.05%~~	~~4.89%~~	~~4.74%~~	~~4.58%~~	~~4.42%~~
~~N4~~	~~5.38%~~	~~5.22%~~	~~5.06%~~	~~4.89%~~	~~4.73%~~	~~4.57%~~
~~N5~~	~~5.56%~~	~~5.39%~~	~~5.22%~~	~~5.05%~~	~~4.88%~~	~~4.72%~~
~~N6~~	~~5.73%~~	~~5.56%~~	~~5.38%~~	~~5.21%~~	~~5.04%~~	~~4.86%~~
~~N7~~	~~5.91%~~	~~5.73%~~	~~5.55%~~	~~5.37%~~	~~5.19%~~	~~5.01%~~
~~N8~~	~~6.08%~~	~~5.89%~~	~~5.71%~~	~~5.53%~~	~~5.34%~~	~~5.16%~~
~~N9~~	~~6.25%~~	~~6.06%~~	~~5.87%~~	~~5.68%~~	~~5.49%~~	~~5.31%~~
~~N10~~	~~6.43%~~	~~6.23%~~	~~6.04%~~	~~5.84%~~	~~5.65%~~	~~5.45%~~
~~N11~~	~~6.60%~~	~~6.40%~~	~~6.20%~~	~~6.00%~~	~~5.80%~~	~~5.60%~~

SOLVENCY RATE SCHEDULES (H-M)

Rate Group	*M*	*L*	*K*	*J*	*I*	*H*
0	*0.05%*	*0.04%*	*0.04%*	*0.03%*	*0.02%*	*0.01%*
1	*0.15%*	*0.14%*	*0.12%*	*0.11%*	*0.09%*	*0.08%*
2	*0.25%*	*0.23%*	*0.21%*	*0.18%*	*0.16%*	*0.14%*
3	*0.36%*	*0.32%*	*0.29%*	*0.26%*	*0.23%*	*0.20%*
4	*0.51%*	*0.47%*	*0.43%*	*0.39%*	*0.35%*	*0.31%*
5	*0.66%*	*0.61%*	*0.57%*	*0.52%*	*0.47%*	*0.43%*
6	*0.81%*	*0.76%*	*0.70%*	*0.65%*	*0.59%*	*0.54%*
7	*0.96%*	*0.90%*	*0.84%*	*0.78%*	*0.71%*	*0.65%*
8	*1.16%*	*1.09%*	*1.02%*	*0.95%*	*0.88%*	*0.82%*
9	*1.36%*	*1.29%*	*1.21%*	*1.13%*	*1.06%*	*0.98%*
10	*1.56%*	*1.48%*	*1.39%*	*1.31%*	*1.23%*	*1.14%*
11	*1.77%*	*1.67%*	*1.58%*	*1.49%*	*1.40%*	*1.30%*
12	*2.02%*	*1.92%*	*1.82%*	*1.72%*	*1.62%*	*1.52%*
13	*2.27%*	*2.16%*	*2.05%*	*1.94%*	*1.84%*	*1.73%*
14	*2.52%*	*2.40%*	*2.29%*	*2.17%*	*2.06%*	*1.94%*
15	*2.77%*	*2.65%*	*2.52%*	*2.40%*	*2.28%*	*2.16%*
16	*3.07%*	*2.94%*	*2.81%*	*2.68%*	*2.55%*	*2.42%*
17	*3.37%*	*3.23%*	*3.10%*	*2.96%*	*2.82%*	*2.68%*
18	*3.67%*	*3.53%*	*3.38%*	*3.24%*	*3.09%*	*2.94%*

19	*3.98%*	*3.82%*	*3.67%*	*3.51%*	*3.36%*	*3.21%*
20	*4.33%*	*4.17%*	*4.00%*	*3.84%*	*3.68%*	*3.52%*
21	*4.68%*	*4.51%*	*4.34%*	*4.17%*	*4.00%*	*3.83%*
22	*5.03%*	*4.85%*	*4.68%*	*4.50%*	*4.32%*	*4.14%*
23	*5.38%*	*5.20%*	*5.01%*	*4.83%*	*4.64%*	*4.46%*
24	*5.78%*	*5.59%*	*5.40%*	*5.21%*	*5.01%*	*4.82%*
25	*6.18%*	*5.98%*	*5.78%*	*5.58%*	*5.38%*	*5.18%*
26	*6.58%*	*6.38%*	*6.17%*	*5.96%*	*5.75%*	*5.55%*
27	*6.99%*	*6.77%*	*6.56%*	*6.34%*	*6.12%*	*5.91%*
N1	*7.34%*	*7.11%*	*6.89%*	*6.67%*	*6.44%*	*6.22%*
N2	*7.69%*	*7.46%*	*7.23%*	*7.00%*	*6.77%*	*6.53%*
N3	*8.04%*	*7.80%*	*7.56%*	*7.32%*	*7.09%*	*6.85%*
N4	*8.39%*	*8.14%*	*7.90%*	*7.65%*	*7.41%*	*7.16%*
N5	*8.69%*	*8.44%*	*8.18%*	*7.93%*	*7.68%*	*7.42%*
N6	*8.99%*	*8.73%*	*8.47%*	*8.21%*	*7.95%*	*7.69%*
N7	*9.29%*	*9.03%*	*8.76%*	*8.49%*	*8.22%*	*7.95%*
N8	*9.60%*	*9.32%*	*9.04%*	*8.77%*	*8.49%*	*8.21%*
N9	*9.85%*	*9.56%*	*9.28%*	*8.99%*	*8.71%*	*8.42%*
N10	*10.10%*	*9.81%*	*9.51%*	*9.22%*	*8.93%*	*8.64%*
N11	*10.35%*	*10.05%*	*9.75%*	*9.45%*	*9.15%*	*8.85%*

CREDIT RATE SCHEDULES (A-F)

Rate Group	*F*	*E*	*D*	*C*	*B*	*A*
0	*0.00%*	*0.00%*	*0.00%*	*0.00%*	*0.00%*	*0.00%*
1	*0.02%*	*0.01%*	*0.00%*	*0.00%*	*0.00%*	*0.00%*
2	*0.06%*	*0.04%*	*0.02%*	*0.00%*	*0.00%*	*0.00%*
3	*0.10%*	*0.07%*	*0.04%*	*0.01%*	*0.00%*	*0.00%*
4	*0.19%*	*0.15%*	*0.11%*	*0.07%*	*0.03%*	*0.00%*
5	*0.27%*	*0.23%*	*0.18%*	*0.13%*	*0.09%*	*0.04%*
6	*0.36%*	*0.31%*	*0.25%*	*0.20%*	*0.14%*	*0.09%*
7	*0.45%*	*0.39%*	*0.32%*	*0.26%*	*0.20%*	*0.14%*
8	*0.58%*	*0.52%*	*0.45%*	*0.38%*	*0.31%*	*0.24%*
9	*0.72%*	*0.64%*	*0.57%*	*0.49%*	*0.41%*	*0.34%*
10	*0.86%*	*0.77%*	*0.69%*	*0.61%*	*0.52%*	*0.44%*
11	*1.00%*	*0.90%*	*0.81%*	*0.72%*	*0.63%*	*0.53%*
12	*1.18%*	*1.08%*	*0.98%*	*0.88%*	*0.78%*	*0.68%*
13	*1.37%*	*1.26%*	*1.16%*	*1.05%*	*0.94%*	*0.83%*
14	*1.56%*	*1.44%*	*1.33%*	*1.21%*	*1.10%*	*0.98%*
15	*1.74%*	*1.62%*	*1.50%*	*1.38%*	*1.25%*	*1.13%*
16	*1.98%*	*1.85%*	*1.72%*	*1.59%*	*1.46%*	*1.33%*
17	*2.22%*	*2.08%*	*1.94%*	*1.80%*	*1.67%*	*1.53%*
18	*2.46%*	*2.31%*	*2.16%*	*2.02%*	*1.87%*	*1.73%*
19	*2.69%*	*2.54%*	*2.39%*	*2.23%*	*2.08%*	*1.92%*
20	*2.98%*	*2.82%*	*2.66%*	*2.50%*	*2.33%*	*2.17%*
21	*3.27%*	*3.10%*	*2.93%*	*2.76%*	*2.59%*	*2.42%*
22	*3.56%*	*3.38%*	*3.20%*	*3.02%*	*2.85%*	*2.67%*
23	*3.84%*	*3.66%*	*3.47%*	*3.29%*	*3.10%*	*2.92%*
24	*4.18%*	*3.99%*	*3.79%*	*3.60%*	*3.41%*	*3.22%*
25	*4.52%*	*4.32%*	*4.12%*	*3.92%*	*3.72%*	*3.52%*
26	*4.85%*	*4.65%*	*4.44%*	*4.23%*	*4.02%*	*3.82%*
27	*5.19%*	*4.98%*	*4.76%*	*4.54%*	*4.33%*	*4.11%*
N1	*5.48%*	*5.26%*	*5.03%*	*4.81%*	*4.59%*	*4.36%*
N2	*5.77%*	*5.53%*	*5.30%*	*5.07%*	*4.84%*	*4.61%*
N3	*6.05%*	*5.81%*	*5.58%*	*5.34%*	*5.10%*	*4.86%*
N4	*6.34%*	*6.09%*	*5.85%*	*5.60%*	*5.36%*	*5.11%*
N5	*6.58%*	*6.32%*	*6.07%*	*5.82%*	*5.56%*	*5.31%*
N6	*6.81%*	*6.55%*	*6.29%*	*6.03%*	*5.77%*	*5.51%*
N7	*7.05%*	*6.78%*	*6.51%*	*6.24%*	*5.97%*	*5.71%*
N8	*7.29%*	*7.01%*	*6.73%*	*6.46%*	*6.18%*	*5.90%*
N9	*7.48%*	*7.19%*	*6.91%*	*6.62%*	*6.34%*	*6.05%*
N10	*7.66%*	*7.37%*	*7.08%*	*6.79%*	*6.49%*	*6.20%*
N11	*7.85%*	*7.55%*	*7.25%*	*6.95%*	*6.65%*	*6.35%*

(iii) Not less than 30 days prior to each calendar year, the secretary shall publish the effective contribution schedules for the previous four rate years and ensuing rate year on a publicly accessible website maintained by the secretary.

(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 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~~ *year* 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~~ *90-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), 44-716, 44-717 and 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.

(f) On July 1, 2024, the director of accounts and reports shall transfer all moneys in the employment security interest assessment fund to the employment security trust fund. On July 1, 2024, all liabilities of the employment security interest assessment fund are hereby transferred to and imposed on the state general fund, and the employment security interest assessment fund is hereby abolished.

Sec. 8. K.S.A. 44-710b is hereby amended to read as follows: 44-710b. (a) *By the secretary of labor.* The secretary of labor shall promptly notify each contributing employer of its rate of contributions, each rated governmental employer of its benefit cost rate and each reimbursing employer of its benefit liability as determined for any calendar year pursuant to K.S.A. 44-710 and 44-710a, and amendments thereto, on or before November 30 of the calendar year immediately preceding the calendar year in which such rate takes effect. Such determination shall become conclusive and binding upon the employer unless, within 15 days after the mailing of notice thereof to the employer's last known address or in the absence of mailing, within 15 days after the delivery of such notice, the employer files an application for review and redetermination, setting forth the reasons therefor. If the secretary of labor grants such review, the employer shall be promptly notified thereof and shall be granted an opportunity for a fair hearing, but no employer shall have standing, in any proceeding involving the employer's rate of contributions or benefit liability, to contest the chargeability to the employer's account of any benefits paid in accordance with a determination, redetermination or decision pursuant to K.S.A. 44-710(c), and amendments thereto, except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for the employer and only in the event that the employer was not a party to such determination, redetermination or decision or to any other proceedings under this act in which the character of such services was determined. Any such hearing conducted pursuant to this section shall

be heard in the county where the contributing employer maintains its principle place of business. The hearing officer shall render a decision concerning all matters at issue in the hearing within 90 days.

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

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

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

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

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

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

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

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

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

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

(g) The secretary shall review benefit claims at the time a claim is made and as necessary to timely determine whether any claimant is eligible for unemployment benefits pursuant to any federal unemployment program. To the extent authorized under federal law, if an individual is eligible for an equal or greater weekly benefit amount under a federal unemployment program than the weekly benefit amount for which such individual is eligible under the employment security law, the secretary shall suspend the payment of state unemployment benefits to such individual while such individual is receiving the federal unemployment benefits. Such suspension of benefits shall terminate upon the individual's exhaustion of benefits available under the federal unemployment program. An individual shall not be eligible to receive the federal unemployment weekly benefit and the state unemployment weekly benefit during the same week. The provisions of this subsection shall not apply to any federal unemployment benefit that is paid in addition to the state weekly benefit amount.

Sec. 9. K.S.A. 44-717 is hereby amended to read as follows: 44-717. (a) (1) *Penalties on past-due reports, interest on past-due contributions, payments in lieu of contributions, and benefit cost payments* ~~*and interest assessments made under K.S.A. 44-710a, and amendments thereto*~~. Any employer or any officer or agent of an employer, who fails to file any wage report or contribution return by the last day of the month following the close of each calendar quarter to which they are related shall pay a penalty as provided by this subsection for each month or fraction of a month until the report or return is received by the secretary of labor ~~except that for calendar years 2010 and 2011 an employer or any officer or agent of the employer shall have up to 90 days past the due date for any of the first three calendar quarters in a calendar year to pay such employer's contribution without being charged any interest, however, when the 90 day period has passed, the provisions of this section shall apply~~. The penalty for each month or fraction of a month shall be an amount equal to .05% of the total wages paid by the employer during the quarter, except that no penalty shall be less than $25 nor more than $200 for each such report or return not timely filed. Contributions~~,~~ *and* benefit cost payments ~~and interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto,~~ unpaid by the last day of the month following the last calendar quarter to which they are related and

payments in lieu of contributions unpaid 30 days after the mailing of the statement of benefit charges, shall bear interest at the rate of 1% per month or fraction of a month until payment is received by the secretary of labor ~~except that~~. An employing unit~~, which is not theretofore~~ *that has not previously been* subject to this law and ~~which~~ *that* becomes an employer and does not refuse to make the reports, returns and contributions, payments in lieu of contributions and benefit cost payments required under this law, shall not be liable for such penalty or interest if the wage reports and contribution returns required are filed and the contributions, payments in lieu of contributions or benefit cost payments required are paid within 10 days following notification by the secretary of labor that a determination has been made fixing its status as an employer subject to this law. Upon written request and good cause shown, the secretary of labor may abate any penalty or interest or portion thereof provided for by this subsection. Interest amounting to less than $5 shall be waived by the secretary of labor and shall not be collected. Penalties and interest collected pursuant to this subsection shall be paid into the special employment security fund. For all purposes under this section, amounts assessed as surcharges under subsection (j) or under K.S.A. 44-710a, and amendments thereto, shall be considered to be contributions and shall be subject to penalties and interest imposed under this section and to collection in the manner provided by this section. ~~For all purposes under this section, amounts assessed under K.S.A. 44-710a, and amendments thereto, shall be subject to penalties and interest imposed under this section and to collection in the manner provided in this section.~~ For purposes of this subsection, a wage report, a contribution return, a contribution, a payment in lieu of contribution~~,~~ *or* a benefit cost payment ~~or an interest assessment made pursuant to K.S.A. 44-710a, and amendments thereto,~~ is deemed to be filed or paid as of the date it is placed in the United States mail.

(2) Notices of payment and reporting delinquency to Indian tribes or their tribal units shall include information that failure to make full payment within the prescribed time frame:

(i) Will cause the Indian tribe to be liable for taxes under FUTA;

(ii) will cause the Indian tribe to lose the option to make payments in lieu of contributions;

(iii) could cause the Indian tribe to be excepted from the definition of ~~"~~employer,~~"~~ as provided in ~~paragraph (h)(3) of~~ K.S.A. 44-703*(h)(3)*, and amendments thereto, and services in the employ of the Indian tribe, as provided in ~~paragraph (i)(3)(E) of~~ K.S.A. 44-703*(i)(3)(E)*, and amendments thereto, to be excepted from ~~"~~employment.~~"~~

(b) *Collection.* (1) If, after due notice, any employer defaults in payment of any penalty, contributions, payments in lieu of contributions~~,~~ *or* benefit cost payments~~, interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto,~~ or interest thereon the amount due may be collected by civil action in the name of the secretary of labor and the employer adjudged in default shall pay the cost of such action. Civil actions brought under this section to collect *such* contributions, payments in lieu of contributions~~,~~ *or* benefit cost payments, ~~interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto,~~ penalties~~,~~ or interest thereon from an employer shall be heard by the district court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this act and cases arising under the workmen's compensation act. All liability determinations of contributions due, payments in lieu of contributions~~,~~ *or* benefit cost payments ~~and interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto,~~ due shall be made within a

period of five years from the date such contributions, payments in lieu of contributions~~,~~ *or* benefit cost payments~~ and interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto,~~ were due except such determinations may be made for any time when an employer has filed fraudulent reports with intent to evade liability.

(2) Any employing unit~~ which~~ *that* is not a resident of this state and~~ which~~ exercises the privilege of having one or more individuals perform service for it within this state and any resident employing unit ~~which~~ *that* exercises that privilege and thereafter~~ removes from~~ *leaves* this state, shall be deemed~~ thereby~~ to~~ appoint~~ *have appointed* the secretary of state as its agent and attorney for the acceptance of process in any civil action under this subsection. In instituting such an action against any such employing unit the secretary of labor shall cause such process or notice to be filed with the secretary of state and such service shall be sufficient service upon such employing unit and shall be of the same force and validity as if served upon~~ it~~ *the employing unit* personally within this state. The secretary of labor shall send notice immediately of the service of such process or notice, together with a copy thereof, by registered or certified mail, return receipt requested, to such employing unit at its last-known address and such return receipt, the affidavit of compliance of the secretary of labor with the provisions of this section~~,~~ and a copy of the notice of service~~,~~ shall be appended to the original of the process filed in the court~~ in which~~ *where* such civil action is pending.

(3) The district courts of this state shall~~ entertain~~ *hear*, in the manner provided in subsections (b)(1) and (b)(2), actions to collect contributions, payments in lieu of contributions,~~ interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto,~~ *benefit cost payments* and other amounts owed including interest thereon for which liability has accrued under the employment security law of any other state or of the federal government.

(c) *Priorities under legal dissolutions or distributions.* In the event of any distribution of employer's assets pursuant to an order of any court under the laws of this state, including but not limited to any probate proceeding, interpleader, receivership, assignment for benefit of creditors, adjudicated insolvency, composition or similar proceedings, contributions payments in lieu of contributions or~~ interest assessments made under K.S.A. 44-710a, and amendments thereto~~ *benefit cost payments*, then or thereafter due shall be paid in full from the moneys which shall first come into the estate, prior to all other claims, except claims for wages of not more than $250 to each claimant, earned within six months of the commencement of the proceedings. In the event of an employer's adjudication in bankruptcy, judicially confirmed extension proposal~~,~~ or composition~~,~~ under~~ the federal bankruptcy act of 1898, as amended~~ *federal bankruptcy law*, contributions then or thereafter due shall be entitled to such priority as is provided~~ in that act~~ *by federal bankruptcy law* for taxes due any state of the United States.

(d) *Assessments.* If any employer fails to file a report or return required by the secretary of labor for the determination of contributions,~~ or~~ payments in lieu of contributions, or benefit cost payments, the secretary of labor may make such reports or returns or cause the same to be made, on the basis of such information as the secretary may be able to obtain and shall collect the contributions, payments in lieu of contributions or benefit cost payments as determined together with any interest due under this act. The secretary of labor shall immediately forward to the employer a copy of the assessment by registered or certified mail to the employer's address as it appears on the records of the agency~~, and~~. Such assessment shall be

final unless the employer protests such assessment and files a corrected report or return for the period covered by the assessment within 15 days after the mailing of the copy of assessment. Failure to receive such notice shall not invalidate the assessment. Notice in writing shall be presumed to have been given when deposited as certified or registered ~~matter~~ *mail* in the United States mail, addressed to the person to be charged with notice at such person's address as it appears on the records of the agency.

(e) (1) *Lien.* If any employer or person who is liable to pay contributions, payments in lieu of contributions~~,~~ *or* benefit cost payments ~~and interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto,~~ neglects or refuses to pay the same after demand, the amount, including interest and penalty, shall be a lien in favor of the state of Kansas, secretary of labor, upon all property and rights to property, whether real or personal, belonging to such employer or person. Such lien shall not be valid as against any mortgagee, pledgee, purchaser or judgment creditor until notice thereof has been filed by the secretary of labor in the office of register of deeds in any county in the state of Kansas~~, in which~~ *where* such property is located, and when so filed shall be notice to all persons claiming an interest in the property of the employer or person against whom filed. The register of deeds shall enter such notices in the financing statement record and shall also record the same in full in miscellaneous record and index the same against the name of the delinquent employer. The register of deeds shall accept, file, and record such notice without prepayment of any fee, but lawful fees shall be added to the amount of such lien and collected when satisfaction is presented for entry. Such lien shall be satisfied of record upon the presentation of a certificate of discharge by the state of Kansas, secretary of labor. Nothing contained in this subsection shall be construed as an invalidation of any lien or notice filed in the name of the unemployment compensation division or the employment security division and such liens shall be and remain in full force and effect until satisfied as provided by this subsection.

(2) *Authority of secretary or authorized representative.* If any employer or person who is liable to pay any contributions, payments in lieu of contributions~~,~~ *or* benefit cost payments ~~and interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto~~, including interest and penalty, neglects or refuses to pay the same within 10 days after notice and demand therefor, the secretary or the secretary's authorized representative may collect such contributions, payments in lieu of contributions~~,~~ *or* benefit cost payments ~~and interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto~~, including interest and penalty, and such further amount as is sufficient to cover the expenses of the levy, by levy upon all property and rights to property ~~which~~ *that* belong to the employer or person or ~~which~~ *that* have a lien created thereon by this subsection for the payment of such contributions, payments in lieu of contributions~~,~~ *or* benefit cost payments ~~and interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto~~, including interest and penalty. As used in this subsection, "property" includes all real property and personal property, whether tangible or intangible, except such property ~~which~~ *that* is exempt under K.S.A. 60-2301 et seq., and amendments thereto. Levy may be made upon the accrued salary or wages of any officer, employee or elected official of any state or local governmental entity which is subject to K.S.A. 60-723, and amendments thereto, by serving a notice of levy as provided in ~~subsection (d) of~~ K.S.A. 60-304*(d)*, and amendments thereto. If the secretary or the secretary's authorized representative makes a finding that the collection of the amount of such contributions, payments in lieu of contributions~~,~~ *or* benefit cost

payments ~~and interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto~~, including interest and penalty, is in jeopardy, notice and demand for immediate payment of such amount may be made by the secretary or the secretary's authorized representative ~~and,~~. Upon *the* failure or refusal to pay such amount, immediate collection of such amount by levy shall be lawful without regard to the 10-day period provided in this subsection.

(3) *Seizure and sale of property.* The authority to levy granted under this subsection includes the power of seizure by any means. A levy shall extend only to property possessed and obligations existing at the time thereof. In any case in which the secretary or the secretary's authorized representative may levy upon property or rights to property, the secretary or the secretary's authorized representative may seize and sell such property or rights to property.

(4) *Successive seizures.* Whenever any property or right to property ~~upon which levy~~ *that* has been ~~made~~ *levied upon* under this subsection is not sufficient to satisfy the claim of the secretary ~~for which~~ *that the* levy ~~is~~ *was* made *for*, the secretary or the secretary's authorized representative may proceed thereafter and as often as may be necessary, to levy in ~~like~~ *the same* manner upon any other property or rights to property ~~which~~ *that* belongs to the employer or person against whom such claim exists or upon which a lien is created by this subsection until the amount due from the employer or person, together with all expenses, is fully paid.

(f) *Warrant.* In addition or as an alternative to any other remedy provided by this section ~~and provided that~~*, if* no appeal or other proceeding for review permitted by this law ~~shall then be~~ *is* pending and the time for taking ~~thereof shall have~~ *an appeal or other proceeding for review has* expired, the secretary of labor or an authorized representative of the secretary may issue a warrant certifying the amount of contributions, payments in lieu of contributions, benefit cost payments, interest or penalty~~,~~ and the name of the employer liable for ~~same~~ *such amount* after giving 15 days prior notice. Upon request, service of final notices shall be made by the sheriff within the sheriff's county, by the sheriff's deputy or some person specially appointed by the secretary for that purpose, or by the secretary's designee. A person specially appointed by the secretary or the secretary's designee to serve final notices may make service any place in the state. Final notices shall be served as follows:

(1) *Individual.* Service upon an individual, other than a minor or incapacitated person, shall be made by delivering a copy of the final notice to the individual personally or by leaving a copy at such individual's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, by leaving a copy at the business establishment of the employer with an officer or employee of the establishment~~,~~ or by delivering a copy to an agent authorized by appointment or by law to receive service of process~~, but~~. If the agent is ~~one~~ designated by a statute to receive service, such further notice as the statute requires shall *also* be given. If service as prescribed above cannot be made with due diligence, the secretary or the secretary's designee may order service to be made by leaving a copy of the final notice at the employer's dwelling house, usual place of abode or business establishment.

(2) *Corporations and partnerships.* Service upon a domestic or foreign corporation or upon a partnership or other unincorporated association, when by law it may be sued as such, shall be made by delivering a copy of the final notice to an officer, partner or resident managing or general agent thereof. *Delivery shall be accomplished* by leaving a copy at any business office of the employer with the person

having charge thereof or by delivering a copy to any other agent authorized by appointment or required by law to receive service of process, if the agent is one authorized by law to receive service ~~and,~~. If the law so requires, ~~by also mailing~~ a copy *shall be mailed* to the employer.

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

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

(B) If service of the notice is made by a person appointed by the secretary or the secretary's designee to make service, such person shall make an affidavit as to the time, place and manner of service thereof in a form prescribed by the secretary or the secretary's designee.

(5) *Time for return.* The officer or other person receiving a final notice shall make a return of service promptly and shall send such return to the secretary or the secretary's designee ~~in any event~~ within 10 days after the service is effected. If the final notice cannot be served it shall be returned to the secretary or the secretary's designee within 30 days after the date of issue with a statement of the reason for ~~the~~ *such* failure ~~to serve the same~~. The original return shall be attached to ~~and filed with~~ any warrant thereafter filed.

(6) *Service by mail.* (A) Upon direction of the secretary or the secretary's designee, service by mail may be effected by forwarding a copy of the notice to the employer by registered or certified mail to the employer's address as it appears on the records of the agency. A copy of the return receipt shall be attached to ~~and filed with~~ any warrant thereafter filed.

(B) The secretary of labor or an authorized representative of the secretary may file the warrant for record in the office of the clerk of the district court in the county in which the employer owing such contributions, payments in lieu of contributions, benefit cost payments, ~~interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto,~~ interest~~,~~ or penalty has business property. The warrant shall certify the amount of contributions, payments in lieu of contributions, benefit cost payments, interest and penalty due, and the name of the employer liable for such amount. It shall be the duty of the clerk of the district court to file such warrant of record and enter the warrant in the records of the district court for judgment and decrees under the procedure prescribed for filing transcripts of judgment.

(C) ~~The clerk shall enter,~~ On the day the warrant is filed, *the clerk shall enter* the case on the appearance docket~~, together~~ with the amount and the time of filing the warrant. From the time of filing such warrant, the amount of the contributions, payments in lieu of contributions, benefit cost payments, ~~interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto,~~ interest~~,~~ and penalty, certified therein, shall have the force and effect of a judgment of the district court until the same is satisfied by the secretary of labor or an authorized representative or attorney for the secretary. Execution shall be issuable at the request of the secretary of labor~~,~~ *or* an authorized representative or attorney for the secretary~~,~~ as ~~is~~ provided in the case of other judgments.

(D) Postjudgment procedures shall be the same as for judgments

according to the code of civil procedure.

(E) Warrants shall be satisfied of record by payment to the clerk of the district court of the contributions, payments in lieu of contributions, benefit cost payments, ~~interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto,~~ penalty, interest to date~~,~~ and court costs. Warrants may also be satisfied of record by payment to the clerk of the district court of all court costs accrued in the case and by filing a certificate by the secretary of labor, certifying that ~~the~~ *such* contributions, payments in lieu of contributions, benefit cost payments, ~~interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto,~~ interest and penalty have been paid.

(g) *Remedies cumulative.* The foregoing remedies shall be cumulative and no action taken shall be construed as an election on the part of the state or any of its officers to pursue any remedy or action under this section to the exclusion of any other remedy or action ~~for which provision is made~~.

(h) *Refunds.* If any individual, governmental entity or organization makes application for refund or adjustment of any amount paid as contributions, benefit cost payments~~, interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto,~~ or interest under this law and the secretary of labor determines that such amount or any portion thereof was erroneously collected, except for amounts less than $5, the secretary of labor shall allow such individual or organization to make an adjustment thereof, in connection with subsequent contribution payments~~, or~~. If such adjustment cannot be made the secretary of labor shall refund the amount, except for amounts less than $5, from the employment security fund, except that all interest erroneously collected which has been paid into the special employment security fund shall be refunded out of the special employment security fund. No adjustment or refund shall be allowed with respect to a payment as contributions, ~~interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto,~~ *benefit cost payments* or interest unless an application therefor is made *by the individual, governmental entity or organization or the adjustment or refund is made on the initiative of the secretary* on or before whichever of the following dates is later: (1) One year from the date on which such payment was made; or (2) three years from the last day of the period with respect to which such payment was made. ~~For like cause and within the same period adjustment or refund may be so made on the secretary's own initiative.~~ The secretary of labor shall not be required to refund any contributions, payments in lieu of contributions or benefit cost payments based upon wages paid which have been used as base-period wages in a determination of a claimant's benefit rights when justifiable and correct payments have been made to the claimant as the result of such determination. ~~For all taxable years commencing after December 31, 1997,~~ Interest at the rate prescribed in K.S.A. 79-2968, and amendments thereto, shall be allowed on a contribution or benefit cost payment which the secretary has determined was erroneously collected pursuant to this section.

(i) (1) *Cash deposit or bond.* If any contributing employer is delinquent in making payments under the employment security law during any two quarters of the most recent four-quarter period, the secretary or the secretary's authorized representative ~~shall have the discretionary power to~~ *may* require such contributing employer either to deposit cash or to file a bond with sufficient sureties to guarantee the payment of contributions, ~~interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto,~~ penalty and interest owed by such employer.

(2) The amount of such cash deposit or bond shall be not less than

the largest total amount of contributions, ~~interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto,~~ penalty and interest reported by the employer in two of the four calendar quarters preceding any delinquency. Such cash deposit or bond shall be required until the employer has shown timely filing of *such* reports and payment of contributions ~~and interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto,~~ for four consecutive calendar quarters.

(3) Failure to file such cash deposit or bond shall subject the employer to a surcharge of 2.0% which shall be in addition to the rate of contributions assigned to the employer under K.S.A. 44-710a, and amendments thereto. Contributions paid as a result of this surcharge shall not be credited to the employer's experience rating account. This surcharge shall be effective during the next full calendar year after its imposition and during each full calendar year thereafter until the employer has filed the required cash deposit or bond or has shown timely filing of reports and payment of contributions for four consecutive calendar quarters.

(j) Any officer, major stockholder or other person who has charge of the affairs of an employer~~, which~~ *that* is an employing unit described in section 501(c)(3) of the federal internal revenue code of 1954 or ~~which~~ *of an employer that* is any other corporate organization or association, or any member or manager of a limited liability company~~,~~ or any public official, who willfully fails to pay the amount of contributions, payments in lieu of contributions~~,~~ *or* benefit cost payments ~~and interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto,~~ required to be paid under the employment security law on the date on which such amount becomes delinquent, shall be personally liable for the total amount of ~~the~~ *such* contributions, payments in lieu of contributions~~,~~ *or* benefit cost payments ~~and interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto,~~ and any penalties and interest due and unpaid by such employing unit. The secretary or the secretary's authorized representative may assess such person for the total amount of *such* contributions, payments in lieu of contributions~~,~~ *or* benefit cost payments ~~and interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto,~~ and any penalties~~,~~ and interest computed as due and owing. With respect to such persons and such amounts assessed, the secretary ~~shall have available all~~ *may use any* of the collection remedies authorized or provided by this section.

(k) *Electronic filing of wage report and contribution return and electronic payment of contributions, benefit cost payments; or reimbursing payments ~~or interest assessments under K.S.A. 44-710a, and amendments thereto~~.* The following employers or ~~third party~~ *third-party* administrators shall file all wage reports and contribution returns and make payment of contributions, benefit cost payments or reimbursing payments electronically as follows:

(1) Wage reports, contribution returns and payments due after June 30, 2008, for those employers with 250 or more employees or ~~third party~~ *third-party* administrators with 250 or more client employees at the time such filing or payment is first due;

(2) wage reports, contribution returns and payments due after June 30, 2009, for those employers with 100 or more employees or ~~third party~~ *third-party* administrators with 100 or more client employees at the time such filing or payment is first due; ~~and~~

(3) wage reports, contribution returns~~,~~ *and* payments ~~and interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto,~~ due after June 30, 2010, for those employers with 50 or more employees and for those ~~third party~~ *third-party* administrators with 50 or more client employees at the time such filing or payment is first due*;*

and

(4) wage reports, contribution returns and payments due after June 30, 2024, for those employers with 25 or more employees and for those third-party administrators with 25 or more client employees at the time such filing or payment is first due.

The requirements of this subsection may be waived by the secretary for an employer if the employer demonstrates a hardship in complying with this subsection.

Sec. 10. K.S.A. 44-757 is hereby amended to read as follows: 44-757. *Shared work unemployment compensation program.* (a) As used in this section:

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

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

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

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

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

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

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

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

(9) "Shared work plan" means a short-term compensation program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) if section 2108 of the federal CARES act, public law 116-136,

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

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

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

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

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

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

(g) A shared work plan may not be implemented to subsidize seasonal employers during the ~~off-season~~ *off season*. *This provision shall not be construed to apply to a shared work plan implemented for school bus drivers pursuant to K.S.A. 44-706(p), and amendments thereto.*

(h) The secretary shall approve or deny a shared work plan ~~no~~ *not* later than the 30th day after the day the shared work plan is received by the secretary. The secretary shall approve or deny a shared work plan in writing. If the secretary denies a shared work plan, the secretary shall notify the employer of the reasons for the denial.

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

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

(k) Notwithstanding any other provisions of the employment security law, an individual is unemployed and is eligible for shared work benefits in any week in which the individual, as an employee in an affected unit, works for less than the individual's normal weekly

hours of work in accordance with an approved shared work plan in effect for that week. The secretary may not deny shared work benefits for any week to an otherwise eligible individual by reason of the application of any provision of the employment security law that relates to availability for work, active search for work or refusal to apply for or accept work with an employer other than the participating employer.

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

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

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

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

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

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

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

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

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

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

(q) Notwithstanding any other provisions of this section, an individual shall not be eligible to receive shared work benefits for more than 52 calendar weeks during the 12-month period of the shared work plan. No week shall be counted as a week for which an individual is eligible for shared work benefits for the purposes of this section unless the week occurs within the 12-month period of the shared work plan.

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

~~(s)~~ This section shall be ~~construed as~~ *a* part of *and supplemental*

to the employment security law.

Sec. 11. K.S.A. 44-771 is hereby amended to read as follows: 44-771. (a) (1) There is hereby created the unemployment compensation modernization and improvement council. The council shall consist of 13 members appointed as follows:

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

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

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

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

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

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

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

(3) The members of the council shall be appointed and the council shall hold its first meeting within 30 days of ~~the effective date of this act~~ *May 13, 2021*.

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

(c) The council shall be dissolved and the provisions of this section pertaining to the establishment, function and operation of the council shall no longer be in effect *on and* after ~~three years from the date of the council's first meeting~~ *December 31, 2026*.

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

account of the state general fund of the department of labor, as designated by the secretary.

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

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

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

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

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

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

(g) (1) The council shall conduct an audit that shall examine the effects on the department of labor and the unemployment insurance system of fraudulent claims and improper payments during the period of March 15, 2020, through March 31, 2022, and the response by the department of labor to such fraudulent claims and improper payments during that period. The council shall select an independent firm to conduct the audit. The auditor shall have access to all confidential documents. The scope of the audit shall include, but not be limited to, the amounts and nature of improper payments and fraudulent claims, fraud processes and methods and the possibility of recovery of any improper payments. The audit shall also include, but not be limited to, an evaluation that provides likelihood of a data breach being a contributing factor to any fraudulent payments, improper network architecture allowing a potential breach to have occurred and a timeline of relevant events. The independent firm shall make a preliminary report to the council by May 1, 2022, and a final report by September

1, 2022, that shall be made publicly available by the council. The preliminary report should include, but not be limited to, an evaluation of systems with access to the payment and processing of claims, forensic endpoint images related to the claims and the external perimeter housing the claims systems, as well as an evaluation of the department of labor's response to claims. The council's report, and any subsequent report provided, shall also include information on the progress regarding the secretary's implementation of all program integrity elements and guidance issued by the United States department of labor and the national association of state workforce agencies as described in K.S.A. 44-772(e), and amendments thereto. Any confidential information shall be redacted and shall not be made public. The audit shall be paid for by the state, subject to appropriations therefor.

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

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

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

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

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

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

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

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

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

(A) Develop a written strategic staffing plan to be implemented whenever there is a substantial increase or a substantial decrease in the

number of inquiries or claims for benefits and review the plan in accordance with the provisions of subsection (n);

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

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

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

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

(B) employees employed by other state agencies; and

(C) employees provided by private entities.

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

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

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

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

Sec. 12. K.S.A. 44-772 is hereby amended to read as follows: 44-772. (a) It is the intent of the legislature that, in order to accomplish the mission of collecting state employment security taxes, processing unemployment insurance benefit claims and paying benefits, the department of labor's information technology system shall be continually developed, customized, enhanced and upgraded. The purpose of this section is to ensure the state's unemployment insurance program is utilizing current technology and features to protect the sensitive data required in the unemployment insurance benefit and tax systems relating to program integrity, system efficiency and customer service experience.

(b) The legislature finds that, as a result of the vulnerabilities exposed in the legacy unemployment insurance system by the COVID-19 pandemic unemployment insurance crisis, a new system shall be fully designed, implemented and administered by the department of labor not later than December 31, 2022. The legislative coordinating council, upon consultation with the unemployment compensation modernization and improvement council established by K.S.A. 44-771, and amendments thereto, may extend the deadline ~~to a date certain and~~

~~may further extend the deadline to another date certain at any time~~ *as often as the legislative coordinating council deems appropriate. The secretary of labor shall provide written notice to the legislative coordinating council and the unemployment compensation modernization and improvement council at least 30 days prior to the expiration of a deadline advising whether the secretary seeks an extension of the deadline and, if so, the basis therefor. The failure of the secretary to provide such notice shall not affect the authority of the legislative coordinating council to act as provided by this subsection. For purposes of this subsection, "consultation" means an appearance before or written statement provided to the legislative coordinating council by the chairperson of the unemployment compensation modernization and improvement council or the chairperson's designee. Any member of the unemployment compensation modernization and improvement council may also provide a written statement. A report to the legislative coordinating council by the unemployment compensation modernization and improvement council may be provided but shall not be required. If any deadline expires before the legislative coordinating council extends that deadline, the council may subsequently meet as soon as reasonably possible and may retroactively extend any deadline as otherwise provided by this subsection*.

(c) The information technology system, technology and platform shall include, but not be limited to, any components as specified and defined by the unemployment compensation modernization and improvement council established by K.S.A. 44-771, and amendments thereto, in consultation with the secretary.

(d) The new system shall include, but not be limited to, any features and benefits as specified and defined by the unemployment compensation modernization and improvement council established by K.S.A. 44-771, and amendments thereto, in consultation with the secretary.

(e) The secretary shall implement and utilize all program integrity elements, as specified and defined by the unemployment compensation modernization and improvement council established by K.S.A. 44-771, and amendments thereto, in consultation with the secretary, including, but not limited to:

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

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

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

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

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

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

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

verification, fraud alert systems and other assets provided by the unemployment insurance integrity center.

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

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

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

(i) The secretary of labor shall adopt rules and regulations necessary for the purposes of carrying out this section. Such rules and regulations shall be adopted ~~within 12 months of the effective date of this act~~ *by May 13, 2022*.

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

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

Sec. 13. K.S.A. 44-774 is hereby amended to read as follows: 44-774. (a) The secretary of labor shall post trust fund computations and data as required by subsection (b) on a publicly accessible website maintained by the secretary as follows:

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

(2) for the fiscal year beginning on July 1, ~~2021~~ *2024*, and each fiscal year thereafter, the secretary shall certify and post the trust fund computations and data for the fiscal year to the website on or before December 1 following the end of such fiscal year.

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

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

(A) The rate group;

(B) the reserve ratio lower limit;

(C) the number of accounts;

(D) the taxable wages by fiscal year;

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

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

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

(H) a summary of terminated and inactive accounts with the number of accounts and fiscal year taxable wages *including all:*

(i) Terminated accounts with the number of accounts and fiscal year taxable wages; and

(ii) inactive accounts with the number of accounts and fiscal year taxable wages organized by regular rated, industry rated and negative rated accounts; ~~and~~

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

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

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

(3) the statewide wage data, including:

(A) Statewide average annual wage (SAAW) for the fiscal year; and

(B) statewide average weekly wage (SAWW) for the fiscal year.

(c) (1) The secretary of labor shall prepare and submit an annual certification memorandum regarding computations and data for contributing negative rated employers assigned to rate groups N1 through N11.

(2) Commencing in 2025 and each year thereafter, the secretary shall submit the certification memorandum on or before January 15 of each calendar year. The certification memorandum shall be for the 12-month period ending on June 30 of the preceding calendar year. In preparing the certification memorandum, the secretary shall consider contributions paid after such 12-month period ending on June 30 that are paid on or before the immediately following July 31.

(3) The secretary shall submit the certification memorandum to the chairpersons, vice chairpersons and ranking minority members of the standing committees of the senate and the house of representatives to which legislation pertaining to the employment security law is customarily referred, the president of the senate, the speaker of the house of representatives, the governor and the legislative coordinating council.

(4) The certification memorandum shall include for the current and most recent calculated three years:

(A) An employer identification number assigned to the employer by the secretary;

(B) NAICS code;

(C) the employer's account balance by fiscal year;

(D) the employer's taxable wages by fiscal year;

(E) the employer's calculated reserve ratio by fiscal year;

(F) the employer's taxable wage base by fiscal year;

(G) the benefits charged to the employer by fiscal year;

(H) if workshare was requested by the employer; and

(I) if workshare was approved for the employer.

(5) Commencing in 2028 and each year thereafter, the annual certification memorandum shall also include the total number, if any, of:

(A) Temporary unemployment weeks requested by the employer;

(B) temporary unemployment weeks approved for the employer;

(C) the claimants who requested temporary unemployment against the employer's account independently from any request for temporary unemployment by the employer; and

(D) the temporary unemployment weeks charged against the employer's account that were claimed independently from any request for temporary unemployment by the employer.

~~(c)~~*(d)* This section shall be a part of and supplemental to the employment security law.

Sec. 14. K.S.A. 2023 Supp. 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.

(2) The program shall be required for all claimants except claimants *that are:*

(A) In the shared work program~~,~~*;*

(B) in the 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~~*;*

(C) on temporary unemployment as defined in K.S.A. 44-703(ii), and amendments thereto;

(D) currently employed~~, claimants that are~~*;*

(E) current reemployment services and eligibility assessment participants~~, claimants that are~~*;*

(F) active members in good standing of a placement union*;* or

(G) claimants that are engaged in a training program.~~ The program shall be implemented on or before June 1, 2021.~~

~~(2)~~*(3) (A) The following shall apply to any request to the secretary for an extension of additional weeks of temporary unemployment, as defined by K.S.A. 44-703(ii), and amendments thereto, if permitted by subparagraph (C):*

(i) The request shall be made in writing by a rated contributing employer on behalf of an identified individual or individuals;

(ii) the request shall be submitted, with respect to each individual, for an increment of eight weeks of additional temporary unemployment allowed for the individual, if permitted by subparagraph (C); and

(iii) the rated contributing employer shall agree to provide the secretary with reports relating to the temporary unemployment extension request as the secretary may require.

(B) The secretary may approve one temporary unemployment extension request for an individual of eight weeks up to the maximum total number of weeks permitted, if permitted by subparagraph (C), if the secretary determines that the requesting employer has:

(i) Agreed to provide the secretary with all reports required as provided by subparagraph (A)(iii);

(ii) filed all reports required to be filed under the employment security law for all past and current periods; and

(iii) paid all contributions required to be paid under the employment security law.

(C) (i) Additional temporary unemployment benefits of eight weeks for an individual in a benefit year may be granted by the secretary if the requests for additional temporary unemployment are made by a requesting employer determined by the secretary to be primarily engaged in:

(a) Ready-mixed concrete production and distribution; or

(b) the construction of highways or elevated highways, streets, roads, airport runways, public sidewalks or bridges.

(ii) The total maximum amount of temporary unemployment for an individual in a benefit year, including any extension of additional temporary unemployment granted by the secretary, shall be limited to 16 weeks.

(4) The secretary of labor shall provide the secretary of commerce with the names and contact information of claimants that have claimed a third week of benefits in the current benefit year. The secretary of labor shall request the claimant to upload or create a complete resume in the Kansasworks workforce system, and complete a job search plan 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 Kansasworks workforce system. The secretary of commerce may require claimants to participate in reemployment services. The claimant shall have 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)~~*(5)* 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)~~*(6)* 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 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)~~*(7)* 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 refer claimants to a work skills training or retraining program 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 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. 15. K.S.A. 44-704, 44-705, 44-706, 44-709, 44-710, 44-710b, 44-717, 44-757, 44-771, 44-772 and 44-774 and K.S.A. 2023 Supp. 44-703, 44-710a and 44-775 are hereby repealed.

Sec. 16. 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.