SENATE BILL No. 154

By Committee on Commerce

AN ACT concerning employment security law; relating to determination of benefits; employer classification and rates; administration by secretary of labor; employment security personnel; amending K.S.A. 2014 Supp. 44-704 and, 44-706, 44-709, 44-710a, 44-714, 44-717 and 44-757 and repealing the existing sections.

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

Section 1. K.S.A. 2014 Supp. 44-704 is hereby amended to read as follows: 44-704. (a) Payment of benefits. All benefits provided herein shall be payable from the fund. All benefits shall be paid through the secretary of labor, in accordance with such rules and regulations as the secretary may adopt. Benefits based on service in employment defined in subsections (i)(3)(E) and (i)(3)(F) of 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 subsection (e) of K.S.A. 44-705(e) and subsection (e)(2) of K.S.A. 44-711(e)(2), 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 in which 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 midmonth 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.

(d) Minimum weekly benefit amount. The minimum weekly benefit
amount payable to any individual shall be 25% of the maximum weekly
benefit calculated in accordance with subsection (c) and shall be
announced by the secretary in conjunction with the published
announcement of the maximum weekly benefit, also as provided in-
subsection (c). The minimum weekly benefit amount so determined and
announced for the twelve-month period beginning July 1 of each year shall
apply only to those claims which establish a benefit year within that
twelve-month period and shall apply through the benefit year of such
claims notwithstanding a change in such amount in a subsequent twelve-
month period. If the minimum weekly benefit amount is not a multiple of
$1 it shall be reduced to the next lower multiple of $1.

For initial claims:

(e) For initial claims effective prior to July 1, 2015, the maximum weekly benefit amount shall
be determined in accordance with subsection (c).

(f) For initial claims effective on or after July 1, 2015, the maximum weekly benefit amount shall be $474. This maximum benefit rate shall be:
in effect for claims effective through December 31, 2017. For initial claims:
effective on or after January 1, 2018, the maximum weekly benefit:
amount shall be determined in accordance with subsection (f).

(f) On or before January 1, 2017, and every three years thereafter, the secretary of labor shall present to the speaker of the house of:
representatives and president of the senate a recommendation for an:
adjustment to the maximum weekly benefit amount to be effective for:
claims effective for a three-year period beginning January 1, 2018. Such:
recommendation shall consider the average weekly wages paid to:
employees in insured work during the previous fiscal year; the average:
duration of unemployment claims; and the ratio of the average weekly:
benefit amount to average weekly wages. The recommendation shall be:
published in the Kansas register. The legislature shall thereafter set a new:
maximum weekly benefit amount to be effective the following January 1:
and continuing for three years. Any future increase of the maximum weekly:
benefit amount must be accompanied with a proportionate increase in the:
taxable wage base.

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

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

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

(f) Weekly benefit payable. Each eligible individual who is
unemployed with respect to any week, except as to final payment, shall be paid with respect to such week a benefit in an amount equal to such individual's determined weekly benefit amount, less that part of the wage, if any, payable to such individual with respect to such week which is in excess of the amount which 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 (e) (f)(3), if continued as though the severance had not occurred, except as set out in subsection (e) (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.A. §§ 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 (e) (f)(1)(B); and
   (D) moneys received as federal social security payments.

(3) For the purposes of this subsection (e) (f), "employment benefits within the employer's control" means benefits offered by the employer to employees which 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 which 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 on which the
employing unit by whom such wages were paid has satisfied the conditions of subsection (h) of K.S.A. 44-703(h), and amendments thereto, with respect to becoming an employer.

(h) 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 the individual's separation from the employment of the employer making the payment until such amount so paid is exhausted.

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

(i) For weeks commencing on and after January 1, 2014, 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 that 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.

Sec. 2. K.S.A. 2014 Supp. 44-710a is hereby amended to read as follows: 44-710a. (a) Classification of employers by the secretary. The term "employer" as used in this section refers to contributing employers. The secretary shall classify employers in accordance with their actual experience in the payment of contributions on their own behalf and with respect to benefits charged against their accounts with a view of fixing such contribution rates as will reflect such experience. If, as of the date such classification of employers is made, the secretary finds that any employing unit has failed to file any report required in connection therewith, or has filed a report which the secretary finds incorrect or insufficient, the secretary shall make an estimate of the information required from such employing unit on the basis of the best evidence reasonably available to the secretary at the time, and notify the employing unit thereof by mail addressed to its last known address. Unless such employing unit shall file the report or a corrected or sufficient report as the
case may be, within 15 days after the mailing of such notice, the secretary shall compute such employing unit's rate of contributions on the basis of such estimates, and the rate as so determined shall be subject to increase but not to reduction on the basis of subsequently ascertained information. The secretary shall determine the contribution rate of each employer in accordance with the requirements of this section.

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

(B) (i) (a) For the rate years 2007 through 2013, each employer who is not eligible for a rate contribution shall pay contributions equal to 4% of wages paid during each calendar year with regard to employment except such employers engaged in the construction industry shall pay a rate equal to 6%.

(b) For the rate year 2014 and each rate year thereafter, except as provided in subclause (e), each employer who is not eligible for a rate contribution shall pay contributions equal to 4% 2.7% of wages paid during each calendar year with regard to employment, except such employers engaged in the construction industry shall pay a rate equal to 6%.

(e) For the rate year 2014 and each rate year thereafter, except for the construction industry, each employer who starts a new business and who is not eligible for a rate contribution shall pay contributions equal to 2.7% of wages paid during each calendar year with regard to employment.

(d)(b) (1) For the rate year 2015 and each rate year thereafter, an employer who was not doing business in Kansas prior to July 1, 2014, shall be eligible for either the new employer rate under subsection (a)(1) (B)(i)(e)(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)(d)(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)(e)(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 rate years prior to 2007, employers who are not eligible for a rate computation shall pay contributions at an assigned rate equal to the sum of 1% plus the greater of the average rate assigned in the preceding calendar year to all employers in such industry sector or the average rate assigned to all covered employers during the preceding calendar year, except that in no instance shall any such assigned rate be less than 2%.

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.

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

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

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

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

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

(C) Eligible employers, other than negative account balance employers, who do not meet the average annual payroll requirements as stated in subsection (a)(2) of K.S.A. 44-703(a)(2), and amendments thereto, will be issued the maximum rate indicated in subsection (a)(3)(C) (a)(4)(D)(ii) of this section until such employer establishes a new period of 24 consecutive calendar months immediately preceding the computation date throughout which benefits could have been charged against such employer's account by resuming the payment of wages. Contribution rates effective for each calendar year thereafter shall be determined as prescribed below.

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

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

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

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

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

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

(v) if the amounts collected under this subsection are in excess of the amounts needed to pay interest due, the amounts in excess shall remain in the employment security interest assessment fund to be used to pay interest in future years. Whenever the secretary certifies all interest payments have been paid pursuant to this section, any excess funds remaining in the employment security interest assessment fund shall be transferred to the employment security 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.

**SCHEDULE II—Surcharge on Negative Accounts**

<table>
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<th>Negative Reserve ratio</th>
<th>Surcharge as a percent of taxable wages</th>
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<th>Surcharge as a percent of taxable wages</th>
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<td>6.0 but less than 8.0%</td>
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(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 four years.

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

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

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

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

(B) For the rate year 2016 and rate years thereafter, the contribution schedule in effect shall be determined by the fund control table and rate schedule table of subsection (a)(4)(D).
### SCHEDULE III—Fund Control

**Ratios to Total Wages**

<table>
<thead>
<tr>
<th>Column A</th>
<th>Column B</th>
</tr>
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<tbody>
<tr>
<td>Reserve Fund Ratio</td>
<td>Planned Yield</td>
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</tr>
<tr>
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<td>0.01</td>
</tr>
<tr>
<td>4.450 but less than 4.475</td>
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<tr>
<td>27</td>
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<td>28</td>
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<td>29</td>
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<tr>
<td>43</td>
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1.450 but less than 1.475 ................................................................. 0.82
1.425 but less than 1.450 ................................................................. 0.83
1.400 but less than 1.425 ................................................................. 0.84
1.375 but less than 1.400 ................................................................. 0.85
1.350 but less than 1.375 ................................................................. 0.86
1.325 but less than 1.350 ................................................................. 0.87
1.300 but less than 1.325 ................................................................. 0.88
1.275 but less than 1.300 ................................................................. 0.89
1.250 but less than 1.275 ................................................................. 0.90
1.225 but less than 1.250 ................................................................. 0.91
1.200 but less than 1.225 ................................................................. 0.92
1.175 but less than 1.200 ................................................................. 0.93
1.150 but less than 1.175 ................................................................. 0.94
1.125 but less than 1.150 ................................................................. 0.95
1.100 but less than 1.125 ................................................................. 0.96
1.075 but less than 1.100 ................................................................. 0.97
1.050 but less than 1.075 ................................................................. 0.98
1.025 but less than 1.050 ................................................................. 0.99
1.000 but less than 1.025 ................................................................. 1.00
0.900 but less than 1.000 ................................................................. 1.01
0.800 but less than 0.900 ................................................................. 1.02
0.700 but less than 0.800 ................................................................. 1.03
0.600 but less than 0.700 ................................................................. 1.04
0.500 but less than 0.600 ................................................................. 1.05
0.400 but less than 0.500 ................................................................. 1.06
0.300 but less than 0.400 ................................................................. 1.07
0.200 but less than 0.300 ................................................................. 1.08
0.100 but less than 0.200 ................................................................. 1.09
Less than 0.100% .................................................................... 1.10

(1)(C) Adjustment to taxable wages. For rate year 2015 and prior rate years, the planned yield as a percent of total wages, as determined in this subsection (a)(3)(4), shall be adjusted to taxable wages by multiplying by the ratio of total wages to taxable wages for all contributing employers for the preceding fiscal year ending June 30, except, with regard to a year in which the taxable wage base changes. The taxable wages used in the calculation for such a year and the following year shall be an estimate of what the taxable wages would have been if the new taxable wage base had been in effect during all of the preceding fiscal year ending June 30.

(C)(D) Effective rates. (i) For rate year 2016 and ensuing rate years, employer contribution rates to be effective for the ensuing calendar year shall be determined by the fund control table contained in this section. The average high cost multiple of the trust fund as of the computation date shall determine the contribution schedule in effect for the next rate year.
For purposes of subsection (a)(4)(D)(i) and (v), the average high cost multiple is the reserve fund ratio, as defined by subsection (a)(4)(A), divided by the average high benefit cost rate. The average high benefit cost rate shall be determined by averaging the three highest benefit 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.

Fund Control Table

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<tr>
<th>Lower AHCM</th>
<th>Upper AHCM</th>
<th>Solvency Adjustment to Standard Rate</th>
</tr>
</thead>
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<td>$1,000,000$</td>
<td>$0.19999$</td>
</tr>
<tr>
<td>$0.20000$</td>
<td>$0.29999$</td>
<td>$0.44999$</td>
</tr>
<tr>
<td>$0.30000$</td>
<td>$0.45000$</td>
<td>$0.59999$</td>
</tr>
<tr>
<td>$0.45000$</td>
<td>$0.60000$</td>
<td>$0.74999$</td>
</tr>
<tr>
<td>$0.60000$</td>
<td>$0.75000$</td>
<td>$0.99999$</td>
</tr>
<tr>
<td>$1.00000$</td>
<td>$1.15000$</td>
<td>$1.14999$</td>
</tr>
<tr>
<td>$1.15000$</td>
<td>$1.34999$</td>
<td>$0.00%$</td>
</tr>
<tr>
<td>$1.35000$</td>
<td>$1.600000$</td>
<td>$0.60%$</td>
</tr>
</tbody>
</table>

(ii) For rate year 2016 and ensuing rate years, eligible employers shall be classified according to the Standard Rate Schedule in this section, subject to any adjustment pursuant to the effective rate schedule for that rate year.

STANDARD RATE SCHEDULE

<table>
<thead>
<tr>
<th>Rate Group</th>
<th>Lower Reserve Ratio Limit</th>
<th>Upper Reserve Ratio Limit</th>
<th>Standard Rate</th>
</tr>
</thead>
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</tr>
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<td>2</td>
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<td>18.589</td>
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</tr>
<tr>
<td>3</td>
<td>17.160</td>
<td>17.874</td>
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</tr>
<tr>
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<td>17.159</td>
<td>0.80%</td>
</tr>
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<tr>
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<td>12.870</td>
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<td>12.869</td>
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</tr>
<tr>
<td>17</td>
<td>7.150</td>
<td>7.864</td>
<td>3.40%</td>
</tr>
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</table>
(iii) For all rate years prior to 2016, except with regard to rates for negative account balance employers, employer contribution rates to be effective for the ensuing calendar year shall be computed by adjusting proportionately the experience factors from schedule I of this section to the required yield on taxable wages. For the purposes of this subsection (a)(3)(4), all rates computed shall be rounded to the nearest .01% and for calendar year 1983 and ensuing calendar years, the maximum effective contribution rate shall not exceed 5.4%.

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

(iii) In order to be eligible for the reduced rates for rate year 2007, the employer must file all late reports and pay all contributions due and owing within a 30-day period following the date of mailing of the amended rate notice.

(iv) In order to be eligible for the reduced rates for rate years 2008 through 2013, employers must file all reports due and pay all contributions due and owing on or before January 31 of the applicable year, except that...
the reduced rates for otherwise eligible employers shall not be effective for any rate year if the average high cost multiple of the employment security trust fund balance falls below 1.2 as of the computation date of that year's rates. In order to be eligible for the reduced rates for rate year 2014 and subsequent rate years, employers must file all reports due and pay all contributions due and owing on or before January 31 of the applicable year, except that the reduced rates for otherwise eligible employers shall not be effective for any rate year if the average high cost multiple of the employment security trust fund balance falls below 1.0 as of the computation date of that year's rates. For the purposes of this provision, the average high cost multiple is the reserve fund ratio, as defined by subsection (a)(3)(A), divided by the average high benefit cost rate. The average high benefit cost rate shall be determined by averaging the three highest benefit cost rates over the last 20 years from the preceding fiscal year which ended June 30. The high benefit cost rate is defined by dividing total benefits paid in the fiscal year by total payrolls for covered employers in the fiscal year.

(v) For rate year 2014 and rate years thereafter, an eligible employer other than a negative account balance employer, who has filed all reports due and paid all contributions due and owing on or before January 31 of the applicable year is entitled to a rate discount of 15% except as provided in this subsection. For rate year 2015 and rate years thereafter, an eligible employer other than a negative account balance employer, who has filed all reports due and paid all contributions due and owing on or before January 31 of the applicable year is entitled to a rate discount of 25% except as provided in this subsection. This discount shall not be in effect if other reduced rates pursuant to subsections (a)(3)(C)(4)(D)(i) through (iv) are in effect. This discount shall not be available for a rate year if the average high cost multiple, as defined in subsection (a)(4)(D)(i), of the employment security trust fund balance falls below 1.0 as of the computation date of that year's rates, and this discount shall thereafter cease to be in effect for all subsequent rate years. For the purposes of this provision, the average high cost multiple is as defined by subsection (a)(3)(C)(iv).

(b) Successor classification. (1) (A) For the purposes of this subsection (b), whenever an employing unit, whether or not it is an "employing unit" within the meaning of subsection (g) of K.S.A. 44-703(g), and amendments thereto, becomes an employer pursuant to subsection (h)(4) of 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 subsection (dd) of 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 subsection (h)(4) or
subsection (dd) of 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 subsection (g) of K.S.A. 44-703(g), and
amendments thereto, acquires or in any manner succeeds to a percentage
of an employer's annual payroll which is less than 100% and intends to
continue the acquired percentage as a going business, the employing unit
may acquire the same percentage of the predecessor's experience factors if:
(A) The predecessor employer and successor employing unit make an
application in writing on the form prescribed by the secretary; (B) the
application is submitted within 120 days of the date of the transfer; (C) the
successor employing unit is or becomes an employer subject to this act
immediately after the transfer; (D) the percentage of the experience rating
factors transferred shall not be thereafter used in computing the
contribution rate for the predecessor employer; and (E) the secretary finds
that such transfer will not tend to defeat or obstruct the object and
purposes of this act.

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

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

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

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

(5) Whenever an employing unit is not an employer at the time it acquires the trade or business of an employer, the unemployment experience factors of the acquired business shall not be transferred to such employing unit if the secretary finds that such employing unit acquired the business solely or primarily for the purpose of obtaining a lower rate of contributions. Instead, such employing unit shall be assigned the applicable industry rate for a "new employer" as described in subsection (a)(1) of this section. 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 subsections (d) and (e) of 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 subsection (b)(8) of 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) of this section.

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

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

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

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

(f) The secretary of labor shall annually prepare and submit a certification as to the solvency and adequacy of the amount credited to the state of Kansas' account in the federal employment security trust fund to the governor and the legislative coordinating council. The certification shall be submitted on or before December 1 of each calendar year and shall be for the 12-month period ending on June 30 of that calendar year. In arriving at the certification contributions paid on or before July 31 following the 12-month period ending date of June 30 shall be considered. Each certification shall be used to determine the need for any adjustment to schedule III in subsection (a)(3)(A)(4)(B) and to assist in preparing legislation to accomplish any such adjustment.

Sec. 3. K.S.A. 2014 Supp. 44-757 is hereby amended to read as follows: 44-757. Shared work unemployment compensation program. (a) As used in this section:

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

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

3. "Fund" has the meaning ascribed thereto by subsection (k) of 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.

6. "Participating employer" means an employer who has a shared work plan 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 program for reducing unemployment under which employees who are members of an affected unit share the work remaining after a reduction in their normal weekly hours of work.

10. "Shared work unemployment compensation program" means
a program designed to reduce unemployment and stabilize the work
force by allowing certain employees to collect unemployment
compensation benefits if the employees share the work remaining after a
reduction in the total number of hours of work and a corresponding
reduction in wages.

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

(c) An employer who wishes to participate in the shared work
unemployment 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.

(d) The secretary may approve a shared work plan if:
(1) The shared work plan applies to and identifies a specific
affected unit;
(2) the employees in the affected unit are identified by name and
social security number;
(3) the shared work plan reduces the normal weekly hours of work
for an employee, including regular part-time employees, in the affected
unit by not less than 20% and not more than 40%;
(4) the shared work plan applies to at least 10% of the employees in
the affected unit;
(5) the shared work plan describes the manner in which the
participating employer treats the fringe benefits of each employee in the
affected unit and the employer certifies that if the employer provides
health benefits and retirement benefits under a defined benefit plan, as
defined in 26 U.S.C. § 414(j), or contributions under a defined
contribution plan, as defined in 26 U.S.C. § 414(i), to any employee
whose workweek is reduced under the program that such benefits will
continue to be provided to employees participating in the shared work
compensation program under the same terms and conditions as though
the workweek of such employee had not been reduced or to the same
extent as other employees not participating in the shared work program;
(6) the employer certifies that the implementation of a shared work
plan and the resulting reduction in work hours is in lieu of layoffs that
would affect at least 10% of the employees in the affected unit and that
would result in an equivalent reduction in work hours;
(7) the employer has filed all reports required to be filed under the employment security law for all past and current periods and has paid all contributions, benefit cost payments, or if a reimbursing employer has made all payments in lieu of contributions due for all past and current periods;

(8) (A) a contributing employer must be eligible for a rate computation under subsection (a)(2) of K.S.A. 44-710a(a)(2), and amendments thereto, and is not a negative account employer as defined by subsection (d) of K.S.A. 44-710a(d), and amendments thereto; (B) a rated governmental employer must be eligible for a rate computation under subsection (g) of 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.

(e) 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.

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

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

(h) 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.

(i) 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).

(j) 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.

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

(1) 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;

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

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

(4) the individual's normal weekly hours of work and wages have been reduced as described in subsection (k)(3) for a waiting period of one week which 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.

(l) 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.
(m) 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 subsection (f) of K.S.A. 44-704(j)(g), and amendments thereto.

(n) 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.

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

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

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

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

Sec. 4. K.S.A. 2014 Supp. 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. 2014 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6421, 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" shall be defined as provided in K.S.A. 41-
102, and amendments thereto;
(iii) "cereal malt beverage" shall be defined as provided in K.S.A.
41-2701, and amendments thereto;
(iv) "chemical test" shall include, but is not limited to, tests of
urine, blood or saliva;  
(v) "controlled substance" shall be defined as provided in K.S.A. 2014 Supp. 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" shall mean 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" shall mean 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" shall mean 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 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) For the period of five years beginning with the first day following the last week of unemployment for which the individual received benefits, or for five years from the date the act was committed, whichever is the later, 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. 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.

(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 subsection (v) of 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
subsection (v) of 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 subsection (v) of
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) which 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 subsection (v) of 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 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
subsection (v) of 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 subsection (s) of 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 subsection (c) of 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. 2014 Supp. 44-709 is hereby amended to read as follows: 44-709. (a) **Filing.** Claims for benefits shall be made in accordance with rules and regulations adopted by the secretary. The secretary shall furnish a copy of such rules and regulations to any individual requesting them. Each employer shall 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.

(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 subsection (d) 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 subsection (c) of 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 which is not a Saturday, Sunday or legal holiday.

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

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

(3) No member of the employment security board of review shall
serve more than two consecutive terms.

(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. The board 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 shall
attend the meetings of the board.

(7) The employment security board of review, 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 shall permit such further appeal
by any of the parties interested in a decision of a referee which
overrules or modifies the decision of an examiner. The board may
remove to itself the proceedings on any claim pending before a referee. Any proceedings so removed to the board shall be heard in accordance with the requirements of subsection (c). The board shall promptly notify the interested parties of its findings and decision.

(8) Two members of the employment security board of review shall constitute a quorum and no action of the board shall be valid unless it has the concurrence of at least two 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 in which 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 shall have access to all of the records which 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) Court review. Review of board action. Any action of the employment security board of review is subject to review may not be reconsidered after the mailing of the decision. An action of the board 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 the absence of an action for such review, the action of such board shall become final 16 calendar days after the date of the mailing of the decision. 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. 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 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 either personally or by means of a designated representative to present evidence and to state the position of the party. Hearings may be conducted in person, by telephone or other means of electronic communication. The hearing shall be conducted by telephone or other means of electronic communication if none of the parties requests an in-person hearing. If only one party requests an in-person hearing, the referee shall have the discretion of requiring 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. 2014 Supp. 44-714 is hereby amended to read as follows: 44-714. (a) *Duties and powers of secretary.* It shall be the duty of the secretary to administer this act and the secretary shall have power and authority to adopt, amend or revoke such rules and regulations, to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action as the secretary deems necessary or suitable to that end. Such rules and regulations may be adopted, amended, or revoked by the secretary only after public hearing or opportunity to be heard thereon. The secretary shall determine the organization and methods of procedure in accordance with the provisions of this act, and shall have an official seal which shall be judicially noticed. The secretary shall make and submit reports for the administration of the employment security law in the manner prescribed by K.S.A. 75-3044 to 75-3046, inclusive, and 75-3048, and amendments thereto. Whenever the secretary believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, the secretary shall promptly so inform the governor and the legislature, and make recommendations with respect thereto.

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

(c) Personnel. (1) Subject to other provisions of this act, the secretary is authorized to appoint, fix the compensation, and prescribe the duties and powers of such officers, accountants, deputies, attorneys, experts and other persons as may be necessary in carrying out the provisions of this act. The secretary shall classify all positions and shall establish salary schedules and minimum personnel standards for the positions so classified. The secretary shall provide for the holding of examinations to determine the qualifications of applicants for the positions so classified, and, except to temporary appointments not to exceed six months in duration, shall appoint all personnel on the basis of efficiency and fitness as determined in such examinations. The secretary shall not appoint or employ any person who is an officer or committee member of any political party organization or who holds or is a candidate for a partisan elective public office. The secretary shall adopt and enforce fair and reasonable rules and regulations for appointment, promotions and demotions, based upon ratings of efficiency and fitness and for terminations for cause. The secretary may delegate to any such person so appointed such power and authority as the secretary deems reasonable and proper for the effective administration of this act, and may in the secretary's discretion bond any person handling moneys or signing checks under the employment security law.

(2) No employee engaged in the administration of the employment security law shall directly or indirectly solicit or receive or be in any manner concerned with soliciting or receiving any assistance, subscription or contribution for any political party or political purpose, other than soliciting and receiving contributions for such person's personal campaign as a candidate for a nonpartisan elective public office, nor shall any employee engaged in the administration of the employment security law participate in any form of political activity except as a candidate for a nonpartisan elective public office, nor shall any employee champion the cause of any political party or the candidacy of any person other than such person's own personal candidacy for a nonpartisan elective public office. Any employee engaged in the administration of the employment security law who violates these provisions shall be immediately discharged. No person shall solicit or receive any contribution for any political purpose from any employee engaged in the administration of the employment security law and any such action shall be a misdemeanor and shall be punishable by a fine of not less than $100 nor more than $1,000 or by imprisonment in the county jail for not less than 30 days nor more than six
months, or both.

(d) **Employment stabilization.** The secretary, with the advice and aid of the appropriate divisions of the department of labor, shall take all appropriate steps to reduce and prevent unemployment; to encourage and assist in the adoption of practical methods of vocational training, retraining and vocational guidance; to investigate, recommend, advise, and assist in the establishment and operation, by municipalities, counties, school districts and the state, of reserves for public works to be used in time of business depression and unemployment; to promote the reemployment of unemployed workers throughout the state in every other way that may be feasible; and to these ends to carry on and publish the results of investigations and research studies.

(e) **Records and reports.** Each employing unit shall keep true and accurate work records, containing such information as the secretary may prescribe. Such records shall be open to inspection and subject to being copied by the secretary or the secretary's authorized representatives at any reasonable time and shall be preserved for a period of five years from the due date of the contributions or payments in lieu of contributions for the period to which they relate. Only one audit shall be made of any employer's records for any given period of time. Upon request the employing unit shall be furnished a copy of all findings by the secretary or the secretary's authorized representatives, resulting from such audit. A special inquiry or special examination made for a specific and limited purpose shall not be considered to be an audit for the purpose of this subsection. The secretary may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which the secretary deems necessary for the effective administration of this act. Information thus obtained or obtained from any individual pursuant to the administration of this act shall be held confidential, except to the extent necessary for the proper presentation of a claim by an employer or employee under the employment security law, and shall not be published or be open to public inspection, other than to public employees in the performance of their public duties, in any manner revealing the individual's or employing unit's identity. The secretary may publish or otherwise disclose appeals records and decisions, and precedential determinations on coverage of employers, employment and wages, provided all social security numbers have been removed. Any claimant or employing unit or their representatives at a hearing before an appeal tribunal or the secretary shall be supplied with information from such records to the extent necessary for the proper presentation of the claim. The transcript made at any such benefits
hearing shall not be discoverable or admissible in evidence in any other proceeding, hearing or determination of any kind or nature. In the event of any appeal of a benefits matter, the transcript shall be sealed by the hearing officer and shall be available only to any reviewing authority who shall reseal the transcript after making a review of it. In no event shall such transcript be deemed a public record. Nothing in this subsection (e) shall be construed to prohibit disclosure of any information obtained under the employment security law, including hearing transcripts, upon request of either of the parties, for the purpose of administering or adjudicating a claim for benefits under the provisions of any other state program, except that any party receiving such information shall be prohibited from further disclosure and shall be subject to the same duty of confidentiality otherwise imposed by this subsection (e) and shall be subject to the penalties imposed by this subsection (e) for violations of such duty of confidentiality. Nothing in this subsection (e) shall be construed to prohibit disclosure of any information obtained under the employment security law, including hearing transcripts, for use as evidence in a criminal investigation or in open court in a criminal prosecution or at an appeal hearing under the employment security law. Nothing in this subsection shall be construed to prohibit disclosure of any information obtained under the employment security law, including hearing transcripts to an agent or contractor of a public official to whom disclosure is permissible under the employment security law, except that any party receiving such information shall be prohibited from further disclosure and shall be subject to the same duty of confidentiality otherwise imposed by this subsection and shall be subject to the penalties imposed by this subsection for violations of such duty of confidentiality. If the secretary or any officer or employee of the secretary violates any provisions of this subsection (e), the secretary or such officer or employee shall be fined not less than $20 nor more than $200 or imprisoned for not longer than 90 days, or both. Original records of the agency and original paid benefit warrants of the state treasurer may be made available to the employment security agency of any other state or the federal government to be used as evidence in prosecution of violations of the employment security law of such state or federal government. Photostatic copies of such records shall be made and where possible shall be substituted for original records introduced in evidence and the originals returned to the agency.

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

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

(1) **Individual.** Service upon an individual, other than a minor or incapacitated person, shall be made: (A) By delivering a copy of the subpoena to the individual personally; (B) 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; (C) by leaving a copy at the business establishment of the employer with an officer or employee of the establishment; (D) 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 be given; or (E) if service as prescribed above in subparagraphs (A), (B), (C) or (D) cannot be made with due diligence, by leaving a copy of the subpoena at the individual's dwelling house, usual place of abode or usual business establishment, and by mailing a notice by first-class mail to the place that the copy has been left.

(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 subpoena to an officer, partner or resident managing or general agent thereof, or by leaving the 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 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 to receive copies of the subpoena, the offer of the duly authorized process server to deliver
copies thereof and such refusal shall be sufficient service of such
subpoena.

(4) **Proof of service.** (A) Every officer to whom a subpoena 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 subpoena is made by a person appointed by
the secretary or the secretary's designee to make service, or any other
person described in subsection (g) of this section, 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
subpoena 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 subpoena 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
failure to serve the same.

(h) **Subpoenas, enforcement.** In case of contumacy by or refusal to
obey a subpoena issued to any person, any court of this state within
the jurisdiction of which the inquiry is carried on or within the
jurisdiction of which such person guilty of contumacy or refusal to
obey is found, resides or transacts business, upon application by the
secretary or the secretary's duly authorized representative, shall have
jurisdiction to issue to such person an order requiring such person to
appear before the secretary, or the secretary's duly authorized
representative, to produce evidence, if so ordered, or to give testimony
relating to the matter under investigation or in question. Failure to
obey such order of the court may be punished by the court as a
contempt thereof. Any person who, without just cause, shall fail or
refuse to attend and testify or to answer any lawful inquiry or to
produce books, papers, correspondence, memoranda or other records
in obedience to the subpoena of the secretary or the secretary's duly
authorized representative shall be punished by a fine of not less than
$200 or by imprisonment of not longer than 60 days, or both, and each
day such violation continued shall be deemed to be a separate offense.

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

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

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

(2) Service performed by not more than three individuals, on any portion of a day but not necessarily simultaneously, for a single employing unit which customarily operates in more than one state shall be deemed to be service performed entirely within the state in which such employing unit maintains the headquarters of its business; provided that there is in effect, as to such service, an approved election by an employing unit with the affirmative consent of each such individual, pursuant to which service performed by such individual for such employing unit is deemed to be performed entirely within such state;

(3) Potential rights to benefits accumulated under the employment compensation laws of one or more states or under one or more such laws of the federal government, or both, may constitute the basis for the payments of benefits through a single appropriate agency under terms which the secretary finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the fund;
(4) wages or services, upon the basis of which an individual may become entitled to benefits under an unemployment compensation law of another state or of the federal government, shall be deemed to be wages for insured work for the purpose of determining such individual's rights to benefits under this act, and wages for insured work, on the basis of which an individual may become entitled to benefits under this act, shall be deemed to be wages or services on the basis of which unemployment compensation under such law of another state or of the federal government is payable, but no such arrangement shall be entered into unless it contains provisions for reimbursements to the fund for such of the benefits paid under this act upon the basis of such wages or services, and provisions for reimbursements from the fund for such of the compensation paid under such other law upon the basis of wages for insured work, as the secretary finds will be fair and reasonable as to all affected interests; and

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

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

(C) the administration of this act and of other state and federal unemployment compensation and public employment service laws will be promoted by cooperation between this state and such other states and the appropriate federal agencies in exchanging services and in making available facilities and information; the secretary is therefore authorized to make such investigations, secure and transmit such information, make available such services and facilities and exercise such of the other powers provided herein with respect to the administration of this act as the secretary deems necessary or appropriate to facilitate the administration of any such unemployment
compensation or public employment service law and, in like manner, to accept and utilize information, service and facilities made available to this state by the agency charged with the administration of any such other unemployment compensation or public employment service law; and

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

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

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

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

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

Sec. 7. K.S.A. 2014 Supp. 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, 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, 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 subject to this law and which 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, 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, 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 contributions, payments in lieu of contributions, 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, 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, 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 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 exercises that privilege and thereafter removes from this
state, shall be deemed thereby to appoint 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 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 such civil action is pending.

(3) The district courts of this state shall entertain, 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, 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, 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, contributions then or thereafter
due shall be entitled to such priority as is provided in that act 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 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, 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 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, 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, 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 belong to the employer or person or which have a lien created thereon by this subsection for the payment of such contributions, payments in lieu of contributions, 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 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, 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 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 has been made under this subsection is not sufficient to satisfy the claim of the secretary for which levy is made, the secretary or the secretary's authorized representative may proceed.
thereafter and as often as may be necessary, to levy in like manner
upon any other property or rights to property which 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 no appeal or other
proceeding for review permitted by this law shall then be pending and
the time for taking thereof shall have 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 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 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 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 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 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 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 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, 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 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, or interest unless an application therefor is made 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 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 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 is an employing unit described in
section 501(c)(3) of the federal internal revenue code of 1954 or which
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, 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 contributions, payments in lieu of contributions, 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 contributions, payments in lieu of contributions, 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 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, reimbursing
payments or interest assessments under K.S.A. 44-710a, and
amendments thereto. The following employers or 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
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
administrators with 100 or more client employees at the time such filing or
payment is first due; and

(3)—Wage reports, contribution returns, 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 administrators with 50 or more
client employees at the time such filing or payment is first due; and

(2) wage reports, contribution returns, payments and interest
assessments made pursuant to K.S.A. 44-710a, and amendments thereto,
due after June 30, 2016, for all employers and third party administrators.
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. 3-48. K.S.A. 2014 Supp. 44-704 and, 44-706, 44-709, 44-710a, 44-714, 44-717 and 44-757 are hereby repealed.

Sec. 4-59. This act shall take effect and be in force from and after its publication in the statute book.