

As Amended by House Committee

(Corrected)

As Amended by Senate Committee

Session of 2015

SENATE BILL No. 154

By Committee on Commerce

2-5

1 AN ACT concerning employment security law; relating to determination
2 of benefits; employer classification and rates; **administration by**
3 **secretary of labor; employment security personnel**; amending
4 K.S.A. 2014 Supp. 44-704 and, **44-706, 44-709, 44-710a, 44-714, 44-**
5 **717 and 44-757** and repealing the existing sections.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 2014 Supp. 44-704 is hereby amended to read as
9 follows: 44-704. (a) *Payment of benefits.* All benefits provided herein shall
10 be payable from the fund. All benefits shall be paid through the secretary
11 of labor, in accordance with such rules and regulations as the secretary
12 may adopt. Benefits based on service in employment defined in
13 subsections ~~(i)(3)(E) and (i)(3)(F)~~ of K.S.A. 44-703 *(i)(3)(E) and (i)(3)(F)*,
14 and amendments thereto, shall be payable in the same amount, on the same
15 terms and subject to the same conditions as compensation payable on the
16 basis of other service subject to this act except as provided in ~~subsection~~
17 ~~(e)~~ of K.S.A. 44-705 *(e)* and ~~subsection (e)(2)~~ of K.S.A. 44-711 *(e)(2)*, and
18 amendments thereto.

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

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

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

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

32 (c) *Maximum weekly benefit amount.* **(1) For initial claims effective**
33 **prior to July 1, 2015, the maximum weekly benefit amount shall be**

1 **determined as follows:** On July 1 of each year, the secretary shall
2 determine the maximum weekly benefit amount by computing 60% of the
3 average weekly wages paid to employees in insured work during the
4 previous calendar year and shall prior to that date announce the maximum
5 weekly benefit amount so determined, by publication in the Kansas
6 register. Such computation shall be made by dividing the gross wages
7 reported as paid for insured work during the previous calendar year by the
8 product of the average of midmonth employment during such calendar
9 year multiplied by 52. The maximum weekly benefit amount so
10 determined and announced for the twelve-month period shall apply only to
11 those claims filed in that period qualifying for maximum payment under
12 the foregoing formula. All claims qualifying for payment at the maximum
13 weekly benefit amount shall be paid at the maximum weekly benefit
14 amount in effect when the benefit year to which the claim relates was first
15 established, notwithstanding a change in the maximum benefit amount for
16 a subsequent twelve-month period. If the computed maximum weekly
17 benefit amount is not a multiple of \$1, then the computed maximum weekly
18 benefit amount shall be reduced to the next lower multiple of \$1.

19 ~~(d) *Minimum weekly benefit amount.* The minimum weekly benefit~~
20 ~~amount payable to any individual shall be 25% of the maximum weekly~~
21 ~~benefit calculated in accordance with subsection (e) and shall be~~
22 ~~announced by the secretary in conjunction with the published~~
23 ~~announcement of the maximum weekly benefit, also as provided in~~
24 ~~subsection (e). The minimum weekly benefit amount so determined and~~
25 ~~announced for the twelve-month period beginning July 1 of each year shall~~
26 ~~apply only to those claims which establish a benefit year filed within that~~
27 ~~twelve-month period and shall apply through the benefit year of such~~
28 ~~claims notwithstanding a change in such amount in a subsequent twelve-~~
29 ~~month period. If the minimum weekly benefit amount is not a multiple of~~
30 ~~\$1 it shall be reduced to the next lower multiple of \$1. *For initial claims*~~
31 ~~*effective prior to July 1, 2015, the maximum weekly benefit amount shall*~~
32 ~~*be determined in accordance with subsection (e).*~~

33 ~~(e) *For initial claims effective on or after July 1, 2015, the maximum*~~
34 ~~*weekly benefit amount shall be \$474. This maximum benefit rate shall be*~~
35 ~~*in effect for claims effective through December 31, 2017. For initial*~~
36 ~~*claims effective on or after January 1, 2018, the maximum weekly benefit*~~
37 ~~*amount shall be determined in accordance with subsection (f).*~~

38 ~~(f) *On or before January 1, 2017, and every three years thereafter,*~~
39 ~~*the secretary of labor shall present to the speaker of the house of*~~
40 ~~*representatives and president of the senate a recommendation for an*~~
41 ~~*adjustment to the maximum weekly benefit amount to be effective for*~~
42 ~~*claims effective for a three-year period beginning January 1, 2018. Such*~~
43 ~~*recommendation shall consider the average weekly wages paid to*~~

~~1 employees in insured work during the previous fiscal year; the average
2 duration of unemployment claims; and the ratio of the average weekly
3 benefit amount to average weekly wages. The recommendation shall be
4 published in the Kansas register. The legislature shall thereafter set a new
5 maximum weekly benefit amount to be effective the following January 1
6 and continuing for three years. Any future increase of the maximum weekly
7 benefit amount must be accompanied with a proportionate increase in the
8 taxable wage base.~~

9 (2) For initial claims effective on or after July 1, 2015, the
10 maximum weekly benefit amount shall be determined as follows: On
11 July 1 of each year, the secretary shall determine the maximum
12 weekly benefit amount by computing 55% of the average weekly
13 wages paid to employees in insured work during the previous calendar
14 year, but not to be less than \$474, and shall, prior to that date,
15 announce the maximum weekly benefit amount so determined by
16 publication in the Kansas register. Such computation shall be made by
17 dividing the gross wages reported as paid for insured work during the
18 previous calendar year by the product of the average of mid-month
19 employment during such calendar year multiplied by 52. The
20 maximum weekly benefit amount so determined and announced for
21 the 12-month period shall apply only to those claims filed in that
22 period qualifying for maximum payment under the foregoing formula.
23 All claims qualifying for payment at the maximum weekly benefit
24 amount shall be paid at the maximum weekly benefit amount in effect
25 when the benefit year to which the claim relates was first established,
26 notwithstanding a change in the maximum benefit amount for a
27 subsequent 12-month period. If the computed maximum weekly
28 benefit amount is not a multiple of \$1, then the computed maximum
29 weekly benefit amount shall be reduced to the next lower multiple of
30 \$1.

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

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

43 ~~(e)~~~~(f)~~(f) *Weekly benefit payable. Each eligible individual who is*

1 unemployed with respect to any week, except as to final payment, shall be
2 paid with respect to such week a benefit in an amount equal to such
3 individual's determined weekly benefit amount, less that part of the wage,
4 if any, payable to such individual with respect to such week which is in
5 excess of the amount which is equal to 25% of such individual's
6 determined weekly benefit amount and if the resulting amount is not a
7 multiple of \$1, it shall be reduced to the next lower multiple of \$1.

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

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

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

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

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

20 (B) severance pay, in lieu of notice, under the provisions of public
21 law 100-379, the federal worker adjustment and retraining notification act,
22 (29 U.S.C.A. §§ 2101 through 2109);

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

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

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

35 ~~(f)~~(g) *Duration of benefits.* Any otherwise eligible individual shall
36 be entitled during any benefit year to a total amount of benefits equal to
37 whichever is the lesser of 26 times such individual's weekly benefit
38 amount, or $\frac{1}{3}$ of such individual's wages for insured work paid during such
39 individual's base period. Such total amount of benefits, if not a multiple of
40 \$1, shall be reduced to the next lower multiple of \$1.

41 ~~(e)~~(h) For the purposes of this section, wages shall be counted as
42 "wages for insured work" for benefit purposes with respect to any benefit
43 year only if such benefit year begins subsequent to the date on which the

1 employing unit by whom such wages were paid has satisfied the
2 conditions of ~~subsection (h)~~ of K.S.A. 44-703(h), and amendments thereto,
3 with respect to becoming an employer.

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

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

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

22 ~~(i)~~^(j) For weeks commencing on and after January 1, 2014, if at
23 the beginning of the benefit year, the three month seasonally adjusted
24 average unemployment rate for the state of Kansas is: (1) Less than 4.5%,
25 a claimant shall be eligible for a maximum of 16 weeks of benefits; (2) at
26 least 4.5% but less than 6%, a claimant shall be eligible for a maximum of
27 20 weeks of benefits; or (3) at least 6%, a claimant shall be eligible for a
28 maximum of 26 weeks of benefits.

29 Sec. 2. K.S.A. 2014 Supp. 44-710a is hereby amended to read as
30 follows: 44-710a. (a) *Classification of employers by the secretary.* The
31 term "employer" as used in this section refers to contributing employers.
32 The secretary shall classify employers in accordance with their actual
33 experience in the payment of contributions on their own behalf and with
34 respect to benefits charged against their accounts with a view of fixing
35 such contribution rates as will reflect such experience. If, as of the date
36 such classification of employers is made, the secretary finds that any
37 employing unit has failed to file any report required in connection
38 therewith, or has filed a report which the secretary finds incorrect or
39 insufficient, the secretary shall make an estimate of the information
40 required from such employing unit on the basis of the best evidence
41 reasonably available to the secretary at the time, and notify the employing
42 unit thereof by mail addressed to its last known address. Unless such
43 employing unit shall file the report or a corrected or sufficient report as the

1 case may be, within 15 days after the mailing of such notice, the secretary
2 shall compute such employing unit's rate of contributions on the basis of
3 such estimates, and the rate as so determined shall be subject to increase
4 but not to reduction on the basis of subsequently ascertained information.
5 The secretary shall determine the contribution rate of each employer in
6 accordance with the requirements of this section.

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

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

16 ~~(b)—For the rate year 2014 and each rate year thereafter, except as~~
17 ~~provided in subclause (c), each employer who is not eligible for a rate~~
18 ~~contribution shall pay contributions equal to 4% 2.7% of wages paid~~
19 ~~during each calendar year with regard to employment, except such~~
20 ~~employers engaged in the construction industry shall pay a rate equal to~~
21 ~~6%.~~

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

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

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

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

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

41 (2) The election authorized in subsection (a)(1)(B)(i)~~(d)~~(b) of this
42 section must be made in writing within 30 days after notice of Kansas
43 liability. A rate in accordance with subsection (a)(1)(B)(i)~~(c)~~(a) will be

1 assigned unless a timely election has been made.

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

6 ~~(ii) For rate years prior to 2007, employers who are not eligible for a
7 rate computation shall pay contributions at an assigned rate equal to the
8 sum of 1% plus the greater of the average rate assigned in the preceding
9 calendar year to all employers in such industry sector or the average rate
10 assigned to all covered employers during the preceding calendar year,
11 except that in no instance shall any such assigned rate be less than 2%.
12 Employers engaged in more than one type of industrial activity shall be
13 classified by principal activity. All rates assigned will remain in effect for a
14 complete calendar year. If the sale or acquisition of a new establishment
15 would require reclassification of the employer to a different industry
16 sector, the employer would be promptly notified, and the contribution rate
17 applicable to the new industry sector would become effective the
18 following January 1.~~

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

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

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

42 ~~(B)—Negative account balance employers as defined in subsection (d)
43 shall pay contributions at the rate of 5.4% for each calendar year. (i) For~~

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

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

7 (C) Eligible employers, other than negative account balance
8 employers, who do not meet the average annual payroll requirements as
9 stated in ~~subsection (a)(2) of~~ K.S.A. 44-703(a)(2), and amendments
10 thereto, will be issued the maximum rate indicated in subsection ~~(a)(3)(C)~~
11 *(a)(4)(D)(ii)* of this section until such employer establishes a new period of
12 24 consecutive calendar months immediately preceding the computation
13 date throughout which benefits could have been charged against such
14 employer's account by resuming the payment of wages. Contribution rates
15 effective for each calendar year thereafter shall be determined as
16 prescribed below.

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

1 experience factor designated to such last employer, notwithstanding the
 2 position of their taxable payroll in column B of schedule I.

3 SCHEDULE I—Eligible Employers

4 Column A	Column B	Column C
5 Rate	Cumulative	Experience factor
6 group	taxable payroll	(Ratio to total wages)
7 1	Less than 1.96% .....	.025%
8 2	1.96% but less than 3.92 .....	.04
9 3	3.92 but less than 5.88 .....	.08
10 4	5.88 but less than 7.84 .....	.12
11 5	7.84 but less than 9.80 .....	.16
12 6	9.80 but less than 11.76 .....	.20
13 7	11.76 but less than 13.72 .....	.24
14 8	13.72 but less than 15.68 .....	.28
15 9	15.68 but less than 17.64 .....	.32
16 10	17.64 but less than 19.60 .....	.36
17 11	19.60 but less than 21.56 .....	.40
18 12	21.56 but less than 23.52 .....	.44
19 13	23.52 but less than 25.48 .....	.48
20 14	25.48 but less than 27.44 .....	.52
21 15	27.44 but less than 29.40 .....	.56
22 16	29.40 but less than 31.36 .....	.60
23 17	31.36 but less than 33.32 .....	.64
24 18	33.32 but less than 35.28 .....	.68
25 19	35.28 but less than 37.24 .....	.72
26 20	37.24 but less than 39.20 .....	.76
27 21	39.20 but less than 41.16 .....	.80
28 22	41.16 but less than 43.12 .....	.84
29 23	43.12 but less than 45.08 .....	.88
30 24	45.08 but less than 47.04 .....	.92
31 25	47.04 but less than 49.00 .....	.96
32 26	49.00 but less than 50.96	1.00
33 27	50.96 but less than 52.92	1.04
34 28	52.92 but less than 54.88	1.08
35 29	54.88 but less than 56.84	1.12
36 30	56.84 but less than 58.80	1.16
37 31	58.80 but less than 60.76	1.20
38 32	60.76 but less than 62.72	1.24
39 33	62.72 but less than 64.68	1.28
40 34	64.68 but less than 66.64	1.32
41 35	66.64 but less than 68.60	1.36
42 36	68.60 but less than 70.56	1.40
43 37	70.56 but less than 72.52	1.44

1	38	72.52 but less than 74.48	1.48
2	39	74.48 but less than 76.44	1.52
3	40	76.44 but less than 78.40	1.56
4	41	78.40 but less than 80.36	1.60
5	42	80.36 but less than 82.32	1.64
6	43	82.32 but less than 84.28	1.68
7	44	84.28 but less than 86.24	1.72
8	45	86.24 but less than 88.20	1.76
9	46	88.20 but less than 90.16	1.80
10	47	90.16 but less than 92.12	1.84
11	48	92.12 but less than 94.08	1.88
12	49	94.08 but less than 96.04	1.92
13	50	96.04 but less than 98.00	1.96
14	51	98.00 and over	2.00

15 (E) *For rate year 2015 and prior rate years*, negative account
 16 balance employers shall, in addition to paying the rate provided for in
 17 subsection (a)(2)(B) of this section, pay a surcharge based on the size of
 18 the employer's negative reserve ratio, the calculation which is provided for
 19 in subsection (a)(2) of this section. The amount of the surcharge shall be
 20 determined from column B2 of schedule II of this section for calendar
 21 years 2012, 2013, 2014 and from column B4 of schedule II of this section
 22 for each calendar year after 2014. Each negative account balance employer
 23 who does not satisfy the requirements to have an average annual payroll,
 24 as defined by ~~subsection (a)(2) of K.S.A. 44-703(a)(2), and amendments~~
 25 ~~thereto, shall be assigned a surcharge of equal to the maximum negative~~
 26 ~~ratio surcharge from column B2 of schedule II of this section for calendar~~
 27 ~~years 2012, 2013 and 2014. From calendar year 2015 forward, each~~
 28 ~~negative account balance employer who does not satisfy the requirements~~
 29 ~~to have an average annual payroll, as defined by subsection (a)(2) of~~
 30 ~~K.S.A. 44-703, and amendments thereto, shall be assigned a surcharge~~
 31 ~~equal to the maximum negative ratio surcharge from column B4 of~~
 32 ~~schedule II of this section.~~ Funds from the surcharge paid according to this
 33 subsection (a)(2)(E), and amendments thereto, shall be used to pay
 34 principal and interest due on funds received from the federal
 35 unemployment account under title XII of the social security act, (42 U.S.C.
 36 §§ 1321 to 1324), in the following manner:

37 (i) For each calendar year 2012, 2013 and 2014, an additional 0.10%
 38 of the taxable wages paid by all negative account balance employers with
 39 a negative reserve ratio between 0.0% and 19.9% shall be designated an
 40 interest assessment surcharge and paid into the employment security
 41 interest assessment fund for the purpose of paying interest due and owing
 42 on funds received from the federal unemployment account under title XII
 43 of the social security act. The total surcharges assessed, including the

1 additional 0.10% surcharge mentioned above, on such employers are listed
 2 in schedule II column B2. For the calendar year 2015, ~~and each calendar~~
 3 ~~year thereafter~~, the surcharge rate for negative balance employers with a
 4 negative reserve ratio between 0.0% and 19.9% shall be as listed in
 5 schedule II column B4.

6 (ii) For the calendar years 2012, 2013 and 2014, an additional
 7 surcharge on negative balance employers with a negative reserve ratio of
 8 20.0% and higher shall be designated an interest assessment surcharge and
 9 deposited in the employment security interest assessment fund. The
 10 additional surcharge shall be used for the purposes of paying interest due
 11 and owing on funds received from the federal unemployment account
 12 under title XII of the social security act. The total surcharge including the
 13 additional surcharge on such employers is listed in schedule II column B3
 14 of this section.

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

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

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

36 SCHEDULE II—Surcharge on Negative Accounts

37 Column A	Column B1	Column B2	Column B3	Column B4
38 Negative Reserve	Surcharge as a	Surcharge as a	Surcharge as a	Surcharge as a
39 ratio	percent of	percent of	percent of	percent of
40		taxable wages	taxable wages	taxable wages
41 taxable wages				
42 Less than 2.0%.....	0.20%.....	0.30%.....	0.10%	
43 2.0% but less than 4.0.....	0.40.....	0.50.....		0.20
44 4.0 but less than 6.0.....	0.60.....	0.70.....		0.30
45 6.0 but less than 8.0.....	0.80.....	0.90.....		0.40

1	8.0 but less than 10.0.....	1.00.....	1.10.....	0.50
2	10.0 but less than 12.0.....	1.20.....	1.30.....	0.60
3	12.0 but less than 14.0.....	1.40.....	1.50.....	0.70
4	14.0 but less than 16.0.....	1.60.....	1.70.....	0.80
5	16.0 but less than 18.0.....	1.80.....	1.90.....	0.90
6	18.0 but less than 20.0.....	2.00.....	2.10.....	1.00
7	20.0 but less than 22.0.....	2.00.....	2.20.....	1.10
8	22.0 but less than 24.0.....	2.00.....	2.40.....	1.20
9	24.0 but less than 26.0.....	2.00.....	2.60.....	1.30
10	26.0 but less than 28.0.....	2.00.....	2.80.....	1.40
11	28.0 but less than 30.0.....	2.00.....	3.00.....	1.50
12	30.0 but less than 32.0.....	2.00.....	3.20.....	1.60
13	32.0 but less than 34.0.....	2.00.....	3.40.....	1.70
14	34.0 but less than 36.0.....	2.00.....	3.60.....	1.80
15	36.0 but less than 38.0.....	2.00.....	3.80.....	1.90
16	38.0 and over.....	2.00.....	4.00.....	2.00

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

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

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

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

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

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

SCHEDULE III—Fund Control	
Ratios to Total Wages	
Column A	Column B
Reserve Fund Ratio	Planned Yield
1	
2	
3	
4	
5	4.500 and over .....0.00
6	4.475 but less than 4.500.....0.01
7	4.450 but less than 4.475.....0.02
8	4.425 but less than 4.450.....0.03
9	4.400 but less than 4.425.....0.04
10	4.375 but less than 4.400.....0.05
11	4.350 but less than 4.375.....0.06
12	4.325 but less than 4.350.....0.07
13	4.300 but less than 4.325.....0.08
14	4.275 but less than 4.300.....0.09
15	4.250 but less than 4.275.....0.10
16	4.225 but less than 4.250.....0.11
17	4.200 but less than 4.225.....0.12
18	4.175 but less than 4.200.....0.13
19	4.150 but less than 4.175.....0.14
20	4.125 but less than 4.150.....0.15
21	4.100 but less than 4.125.....0.16
22	4.075 but less than 4.100.....0.17
23	4.050 but less than 4.075.....0.18
24	4.025 but less than 4.050.....0.19
25	4.000 but less than 4.025.....0.20
26	3.950 but less than 4.000.....0.21
27	3.900 but less than 3.950.....0.22
28	3.850 but less than 3.900.....0.23
29	3.800 but less than 3.850.....0.24
30	3.750 but less than 3.800.....0.25
31	3.700 but less than 3.750.....0.26
32	3.650 but less than 3.700.....0.27
33	3.600 but less than 3.650.....0.28
34	3.550 but less than 3.600.....0.29
35	3.500 but less than 3.550.....0.30
36	3.450 but less than 3.500.....0.31
37	3.400 but less than 3.450.....0.32
38	3.350 but less than 3.400.....0.33
39	3.300 but less than 3.350.....0.34
40	3.250 but less than 3.300.....0.35
41	3.200 but less than 3.250.....0.36
42	3.150 but less than 3.200.....0.37
43	3.100 but less than 3.150.....0.38

1	3.050 but less than 3.100.....	0.39
2	3.000 but less than 3.050.....	0.40
3	2.950 but less than 3.000.....	0.41
4	2.900 but less than 2.950.....	0.42
5	2.850 but less than 2.900.....	0.43
6	2.800 but less than 2.850.....	0.44
7	2.750 but less than 2.800.....	0.45
8	2.700 but less than 2.750.....	0.46
9	2.650 but less than 2.700.....	0.47
10	2.600 but less than 2.650.....	0.48
11	2.550 but less than 2.600.....	0.49
12	2.500 but less than 2.550.....	0.50
13	2.450 but less than 2.500.....	0.51
14	2.400 but less than 2.450.....	0.52
15	2.350 but less than 2.400.....	0.53
16	2.300 but less than 2.350.....	0.54
17	2.250 but less than 2.300.....	0.55
18	2.200 but less than 2.250.....	0.56
19	2.150 but less than 2.200.....	0.57
20	2.100 but less than 2.150.....	0.58
21	2.050 but less than 2.100.....	0.59
22	2.000 but less than 2.050.....	0.60
23	1.975 but less than 2.000.....	0.61
24	1.950 but less than 1.975.....	0.62
25	1.925 but less than 1.950.....	0.63
26	1.900 but less than 1.925.....	0.64
27	1.875 but less than 1.900.....	0.65
28	1.850 but less than 1.875.....	0.66
29	1.825 but less than 1.850.....	0.67
30	1.800 but less than 1.825.....	0.68
31	1.775 but less than 1.800.....	0.69
32	1.750 but less than 1.775.....	0.70
33	1.725 but less than 1.750.....	0.71
34	1.700 but less than 1.725.....	0.72
35	1.675 but less than 1.700.....	0.73
36	1.650 but less than 1.675.....	0.74
37	1.625 but less than 1.650.....	0.75
38	1.600 but less than 1.625.....	0.76
39	1.575 but less than 1.600.....	0.77
40	1.550 but less than 1.575.....	0.78
41	1.525 but less than 1.550.....	0.79
42	1.500 but less than 1.525.....	0.80
43	1.475 but less than 1.500.....	0.81

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

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

39 ~~(C)~~(D) *Effective rates. (i) For rate year 2016 and ensuing rate years,*
 40 *employer contribution rates to be effective for the ensuing calendar year*
 41 *shall be determined by the fund control table contained in this section. The*
 42 *average high cost multiple of the trust fund as of the computation date*
 43 *shall determine the contribution schedule in effect for the next rate year.*

1 For purposes of subsection (a)(4)(D)(i) and (v), the average high cost
 2 multiple is the reserve fund ratio, as defined by subsection (a)(4)(A),
 3 divided by the average high benefit cost rate. The average high benefit
 4 cost rate shall be determined by averaging the three highest benefit cost
 5 rates over the last 20 years from the preceding fiscal year which ended
 6 June 30. The high benefit cost rate is defined by dividing total benefits
 7 paid in the fiscal year by total payrolls for covered employers in the fiscal
 8 year.

Fund Control Table		
Lower AHCM	Upper AHCM	Solvency Adjustment
Threshold	Threshold	to Standard Rate
1000.00000 -1000.00000	0.19999	1.60%
0.20000	0.29999 0.44999	1.40%
0.30000 0.45000	0.44999 0.59999	1.20%
0.45000 0.60000	0.59999 0.74999	1.00%
0.60000 0.75000	0.99999 1.14999	0.00%
1.00000 1.15000	1.14999 1000.0000	-0.20% -0.50%
1.15000	1.34999	-0.40%
1.35000	1000.00000	-0.60%

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

STANDARD RATE SCHEDULE

Rate Group	Lower Reserve Ratio Limit	Upper Reserve Ratio Limit	Standard Rate
27 1	18.590	1,000,000.000	0.20%
28 2	17.875	18.589	0.40%
29 3	17.160	17.874	0.60%
30 4	16.445	17.159	0.80%
31 5	15.730	16.444	1.00%
32 6	15.015	15.729	1.20%
33 7	14.300	15.014	1.40%
34 8	13.585	14.299	1.60%
35 9	12.870	13.584	1.80%
36 10	12.155	12.869	2.00%
37 11	11.440	12.154	2.20%
38 12	10.725	11.439	2.40%
39 13	10.010	10.724	2.60%
40 14	9.295	10.009	2.80%
41 15	8.580	9.294	3.00%
42 16	7.865	8.579	3.20%
43 17	7.150	7.864	3.40%

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

22 (iii) For all rate years prior to 2016, except with regard to rates for
 23 negative account balance employers, employer contribution rates to be
 24 effective for the ensuing calendar year shall be computed by adjusting
 25 proportionately the experience factors from schedule I of this section to the
 26 required yield on taxable wages. For the purposes of this subsection (a)(3)
 27 (4), all rates computed shall be rounded to the nearest .01% and for
 28 calendar year 1983 and ensuing calendar years, the maximum effective
 29 contribution rate shall not exceed 5.4%.

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

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

41 ~~(iv) In order to be eligible for the reduced rates for rate years 2008~~
 42 ~~through 2013, employers must file all reports due and pay all contributions~~
 43 ~~due and owing on or before January 31 of the applicable year, except that~~

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

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

35 (b) *Successor classification.* (1) (A) For the purposes of this
36 subsection (b), whenever an employing unit, whether or not it is an
37 "employing unit" within the meaning of ~~subsection (g)~~ of K.S.A. 44-
38 703(g), and amendments thereto, becomes an employer pursuant to
39 ~~subsection (h)(4)~~ of K.S.A. 44-703(h)(4), and amendments thereto, or is an
40 employer at the time of acquisition and meets the definition of a
41 "successor employer" as defined by ~~subsection (dd)~~ of K.S.A. 44-703(dd),
42 and amendments thereto, and thereafter transfers its trade or business, or
43 any portion thereof, to another employer and, at the time of the transfer,

1 there is substantially common ownership, management or control of the
2 two employers, then the unemployment experience attributable to the
3 transferred trade or business shall be transferred to the employer to whom
4 such business is so transferred. These experience factors consist of all
5 contributions paid, benefit experience and annual payrolls of the
6 predecessor employer. The transfer of some or all of an employer's
7 workforce to another employer shall be considered a transfer of trade or
8 business when, as the result of such transfer, the transferring employer no
9 longer performs trade or business with respect to the transferred
10 workforce, and such trade or business is performed by the employer to
11 whom the workforce is transferred.

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

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

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

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

41 (B) If a successor employer is determined to be qualified under
42 paragraph (2) or (3) of this subsection to receive the experience rating
43 factors of the predecessor employer, the rate assigned to the successor

1 employer for the remainder of the contributions year shall be determined
2 by the following:

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

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

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

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

39 (7) No rate computation will be permitted an employing unit
40 succeeding to the experience of another employing unit pursuant to this
41 section for any period subsequent to such succession except in accordance
42 with rules and regulations adopted by the secretary. Any such regulations
43 shall be consistent with federal requirements for additional credit

1 allowance in section 3303 of the federal internal revenue code of 1986,
2 and consistent with the provisions of this act.

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

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

19 (e) There is hereby established in the state treasury, separate and apart
20 from all public moneys or funds of this state, an employment security
21 interest assessment fund, which shall be administered by the secretary as
22 provided in this act. Moneys in the employment security fund established
23 by K.S.A. 44-712, and amendments thereto, and employment security
24 interest assessment fund established by K.S.A. 44-710, and amendments
25 thereto, shall not be invested in the pooled money investment portfolio
26 established under K.S.A. 75-4234, and amendments thereto.
27 Notwithstanding the provisions of ~~subsection (a) of K.S.A. 44-712(a),~~
28 K.S.A. 44-716, K.S.A. 44-717 and K.S.A. 75-4234, and amendments
29 thereto, or any like provision the secretary shall remit all moneys received
30 from employers pursuant to the interest payment assessment established in
31 subsection (a)(2)(E), to the state treasurer in accordance with the
32 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
33 each such remittance, the state treasurer shall deposit the entire amount in
34 the employment security interest assessment fund. All moneys in this fund
35 which are received from employers pursuant to the interest payment
36 assessment established in subsection (a)(2)(E), shall be expended solely
37 for the purposes and in the amounts found by the secretary necessary to
38 pay any principal and interest due and owing the United States department
39 of labor resulting from any advancements made to the Kansas employment
40 security fund pursuant to the provisions of title XII of the social security
41 act (42 U.S.C. §§ 1321 to 1324) except as may be otherwise provided
42 under subsection (a)(2)(E). Notwithstanding any provision of this section,
43 all moneys received and credited to this fund pursuant to subsection (a)(2)

1 (E), shall remain part of the employment security interest assessment fund
2 and shall be used only in accordance with the conditions specified in
3 subsection (a)(2)(E).

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

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

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

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

25 (3) ***"Fund" has the meaning ascribed thereto by*** ~~subsection (k) of~~
26 ***K.S.A. 44-703(k), and amendments thereto.***

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

30 (5) ***"Participating employee" means an employee who works a***
31 ***reduced number of hours under a shared work plan.***

32 (6) ***"Participating employer" means an employer who has a shared***
33 ***work plan in effect.***

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

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

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

43 (10) ***"Shared work unemployment compensation program" means***

1 *a program designed to reduce unemployment and stabilize the work*
2 *force by allowing certain employees to collect unemployment*
3 *compensation benefits if the employees share the work remaining after a*
4 *reduction in the total number of hours of work and a corresponding*
5 *reduction in wages.*

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

11 *(c) An employer who wishes to participate in the shared work*
12 *unemployment compensation program must submit a written shared*
13 *work plan to the secretary for the secretary's approval. As a condition*
14 *for approval, a participating employer must agree to furnish the*
15 *secretary with reports relating to the operation of the shared work plan*
16 *as requested by the secretary. The employer shall monitor and evaluate*
17 *the operation of the established shared work plan as requested by the*
18 *secretary and shall report the findings to the secretary.*

19 *(d) The secretary may approve a shared work plan if:*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 (i) *An employer may modify a shared work plan created under this*
42 *section to meet changed conditions if the modification conforms to the*
43 *basic provisions of the shared work plan as approved by the secretary.*

1 *The employer must report the changes made to the shared work plan in*
2 *writing to the secretary before implementing the changes. If the original*
3 *shared work plan is substantially modified, the secretary shall reevaluate*
4 *the shared work plan and may approve the modified shared work plan if*
5 *it meets the requirements for approval under subsection (d). The*
6 *approval of a modified shared work plan does not affect the expiration*
7 *date originally set for that shared work plan. If substantial modifications*
8 *cause the shared work plan to fail to meet the requirements for approval,*
9 *the secretary shall deny approval to the modifications as provided by*
10 *subsection (g).*

11 *(j) Notwithstanding any other provisions of the employment*
12 *security law, an individual is unemployed and is eligible for shared work*
13 *benefits in any week in which the individual, as an employee in an*
14 *affected unit, works for less than the individual's normal weekly hours*
15 *of work in accordance with an approved shared work plan in effect for*
16 *that week. The secretary may not deny shared work benefits for any*
17 *week to an otherwise eligible individual by reason of the application of*
18 *any provision of the employment security law that relates to availability*
19 *for work, active search for work or refusal to apply for or accept work*
20 *with an employer other than the participating employer.*

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

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

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

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

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

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

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

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

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

15 (p) *Notwithstanding any other provisions of this section, an*
16 *individual shall not be eligible to receive shared work benefits for more*
17 *than 26 calendar weeks during the 12-month period of the shared work*
18 *plan, except that two weeks of additional benefits shall be payable to*
19 *claimants who exhaust regular benefits and any benefits under any*
20 *other federal or state extended benefits program during the period July*
21 *1, 2003 through June 30, 2004. No week shall be counted as a week for*
22 *which an individual is eligible for shared work benefits for the purposes*
23 *of this section unless the week occurs within the 12-month period of the*
24 *shared work plan.*

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

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

30 **Sec. 4. K.S.A. 2014 Supp. 44-706 is hereby amended to read as**
31 **follows: 44-706.** *The secretary shall examine whether an individual has*
32 *separated from employment for each week claimed. The secretary shall*
33 *apply the provisions of this section to the individual's most recent*
34 *employment prior to the week claimed. An individual shall be*
35 *disqualified for benefits:*

36 (a) *If the individual left work voluntarily without good cause*
37 *attributable to the work or the employer, subject to the other*
38 *provisions of this subsection. For purposes of this subsection, "good*
39 *cause" is cause of such gravity that would impel a reasonable, not*
40 *supersensitive, individual exercising ordinary common sense to leave*
41 *employment. Good cause requires a showing of good faith of the*
42 *individual leaving work, including the presence of a genuine desire to*
43 *work. Failure to return to work after expiration of approved personal*

1 or medical leave, or both, shall be considered a voluntary resignation.
2 After a temporary job assignment, failure of an individual to
3 affirmatively request an additional assignment on the next succeeding
4 workday, if required by the employment agreement, after completion
5 of a given work assignment, shall constitute leaving work voluntarily.
6 The disqualification shall begin the day following the separation and
7 shall continue until after the individual has become reemployed and
8 has had earnings from insured work of at least three times the
9 individual's weekly benefit amount. An individual shall not be
10 disqualified under this subsection if:

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

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

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

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

36 (5) the individual left work because of hazardous working
37 conditions; in determining whether or not working conditions are
38 hazardous for an individual, the degree of risk involved to the
39 individual's health, safety and morals, the individual's physical fitness
40 and prior training and the working conditions of workers engaged in
41 the same or similar work for the same and other employers in the
42 locality shall be considered; as used in this paragraph, "hazardous
43 working conditions" means working conditions that could result in a

1 danger to the physical or mental well-being of the individual; each
2 determination as to whether hazardous working conditions exist shall
3 include, but shall not be limited to, a consideration of: (A) The safety
4 measures used or the lack thereof; and (B) the condition of equipment
5 or lack of proper equipment; no work shall be considered hazardous if
6 the working conditions surrounding the individual's work are the
7 same or substantially the same as the working conditions generally
8 prevailing among individuals performing the same or similar work for
9 other employers engaged in the same or similar type of activity;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 **(ii) a police record documenting the abuse;**

21 **(iii) documentation that the abuser has been convicted of one or**
22 **more of the offenses enumerated in articles 34 and 35 of chapter 21 of**
23 **the Kansas Statutes Annotated, prior to their repeal, or articles 54 or**
24 **55 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2014**
25 **Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and**
26 **amendments thereto, where the victim was a family or household**
27 **member;**

28 **(iv) medical documentation of the abuse;**

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

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

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

39 **(b) If the individual has been discharged or suspended for**
40 **misconduct connected with the individual's work. The disqualification**
41 **shall begin the day following the separation and shall continue until**
42 **after the individual becomes reemployed and in cases where the**
43 **disqualification is due to discharge for misconduct has had earnings**

1 from insured work of at least three times the individual's determined
2 weekly benefit amount, except that if an individual is discharged for
3 gross misconduct connected with the individual's work, such
4 individual shall be disqualified for benefits until such individual again
5 becomes employed and has had earnings from insured work of at least
6 eight times such individual's determined weekly benefit amount. In
7 addition, all wage credits attributable to the employment from which
8 the individual was discharged for gross misconduct connected with the
9 individual's work shall be canceled. No such cancellation of wage
10 credits shall affect prior payments made as a result of a prior
11 separation.

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

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

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

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

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

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

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

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

1 (v) any conduct that constitutes a felony.

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

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

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

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

11 (a) The test was either:

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

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

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

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

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

25 (b) the test sample was collected either:

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

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

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

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

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

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

1 including law enforcement personnel;

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

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

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

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

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

21 (a) The test meets the standards of the drug free workplace act,
22 41 U.S.C. § 701 et seq.;

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

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

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

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

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

36 (C) For purposes of this subsection:

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

39 (ii) "alcoholic liquor" shall be defined as provided in K.S.A. 41-
40 102, and amendments thereto;

41 (iii) "cereal malt beverage" shall be defined as provided in K.S.A.
42 41-2701, and amendments thereto;

43 (iv) "chemical test" shall include, but is not limited to, tests of

1 urine, blood or saliva;

2 (v) "controlled substance" shall be defined as provided in K.S.A.
3 2014 Supp. 21-5701, and amendments thereto;

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

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

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

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

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

34 (B) the individual was making a good-faith effort to do the
35 assigned work but was discharged due to: (i) Inefficiency; (ii)
36 unsatisfactory performance due to inability, incapacity or lack of
37 training or experience; (iii) isolated instances of ordinary negligence
38 or inadvertence; (iv) good-faith errors in judgment or discretion; or
39 (v) unsatisfactory work or conduct due to circumstances beyond the
40 individual's control; or

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

43 (c) If the individual has failed, without good cause, to either apply

1 for suitable work when so directed by the employment office of the
2 secretary of labor, or to accept suitable work when offered to the
3 individual by the employment office, the secretary of labor, or an
4 employer, such disqualification shall begin with the week in which
5 such failure occurred and shall continue until the individual becomes
6 reemployed and has had earnings from insured work of at least three
7 times such individual's determined weekly benefit amount. In
8 determining whether or not any work is suitable for an individual, the
9 secretary of labor, or a person or persons designated by the secretary,
10 shall consider the degree of risk involved to health, safety and morals,
11 physical fitness and prior training, experience and prior earnings,
12 length of unemployment and prospects for securing local work in the
13 individual's customary occupation or work for which the individual is
14 reasonably fitted by training or experience, and the distance of the
15 available work from the individual's residence. Notwithstanding any
16 other provisions of this act, an otherwise eligible individual shall not
17 be disqualified for refusing an offer of suitable employment, or failing
18 to apply for suitable employment when notified by an employment
19 office, or for leaving the individual's most recent work accepted
20 during approved training, including training approved under section
21 236(a)(1) of the trade act of 1974, if the acceptance of or applying for
22 suitable employment or continuing such work would require the
23 individual to terminate approved training and no work shall be
24 deemed suitable and benefits shall not be denied under this act to any
25 otherwise eligible individual for refusing to accept new work under
26 any of the following conditions: (1) If the position offered is vacant due
27 directly to a strike, lockout or other labor dispute; (2) if the
28 remuneration, hours or other conditions of the work offered are
29 substantially less favorable to the individual than those prevailing for
30 similar work in the locality; (3) if as a condition of being employed, the
31 individual would be required to join or to resign from or refrain from
32 joining any labor organization; and (4) if the individual left
33 employment as a result of domestic violence, and the position offered
34 does not reasonably accommodate the individual's physical,
35 psychological, safety, or legal needs relating to such domestic violence.

36 (d) For any week with respect to which the secretary of labor, or a
37 person or persons designated by the secretary, finds that the
38 individual's unemployment is due to a stoppage of work which exists
39 because of a labor dispute or there would have been a work stoppage
40 had normal operations not been maintained with other personnel
41 previously and currently employed by the same employer at the
42 factory, establishment or other premises at which the individual is or
43 was last employed, except that this subsection (d) shall not apply if it is

1 shown to the satisfaction of the secretary of labor, or a person or
2 persons designated by the secretary, that: (1) The individual is not
3 participating in or financing or directly interested in the labor dispute
4 which caused the stoppage of work; and (2) the individual does not
5 belong to a grade or class of workers of which, immediately before the
6 commencement of the stoppage, there were members employed at the
7 premises at which the stoppage occurs any of whom are participating
8 in or financing or directly interested in the dispute. If in any case
9 separate branches of work which are commonly conducted as separate
10 businesses in separate premises are conducted in separate
11 departments of the same premises, each such department shall, for the
12 purpose of this subsection be deemed to be a separate factory,
13 establishment or other premises. For the purposes of this subsection,
14 failure or refusal to cross a picket line or refusal for any reason during
15 the continuance of such labor dispute to accept the individual's
16 available and customary work at the factory, establishment or other
17 premises where the individual is or was last employed shall be
18 considered as participation and interest in the labor dispute.

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

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

30 (g) For the period of five years beginning with the first day
31 following the last week of unemployment for which the individual
32 received benefits, or for five years from the date the act was
33 committed, whichever is the later, if the individual, or another in such
34 individual's behalf with the knowledge of the individual, has
35 knowingly made a false statement or representation, or has knowingly
36 failed to disclose a material fact to obtain or increase benefits under
37 this act or any other unemployment compensation law administered
38 by the secretary of labor. In addition to the penalties set forth in
39 K.S.A. 44-719, and amendments thereto, an individual who has
40 knowingly made a false statement or representation or who has
41 knowingly failed to disclose a material fact to obtain or increase
42 benefits under this act or any other unemployment compensation law
43 administered by the secretary of labor shall be liable for a penalty in

1 the amount equal to 25% of the amount of benefits unlawfully
2 received. Notwithstanding any other provision of law, such penalty
3 shall be deposited into the employment security trust fund.

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

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

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

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

43 (l) For any week of unemployment on the basis of any services,

1 substantially all of which consist of participating in sports or athletic
2 events or training or preparing to so participate, if such week begins
3 during the period between two successive sport seasons or similar
4 period if such individual performed services in the first of such
5 seasons or similar periods and there is a reasonable assurance that
6 such individual will perform such services in the later of such seasons
7 or similar periods.

8 (m) For any week on the basis of services performed by an alien
9 unless such alien is an individual who was lawfully admitted for
10 permanent residence at the time such services were performed, was
11 lawfully present for purposes of performing such services, or was
12 permanently residing in the United States under color of law at the
13 time such services were performed, including an alien who was
14 lawfully present in the United States as a result of the application of
15 the provisions of section 212(d)(5) of the federal immigration and
16 nationality act. Any data or information required of individuals
17 applying for benefits to determine whether benefits are not payable to
18 them because of their alien status shall be uniformly required from all
19 applicants for benefits. In the case of an individual whose application
20 for benefits would otherwise be approved, no determination that
21 benefits to such individual are not payable because of such
22 individual's alien status shall be made except upon a preponderance of
23 the evidence.

24 (n) For any week in which an individual is receiving a
25 governmental or other pension, retirement or retired pay, annuity or
26 other similar periodic payment under a plan maintained by a base
27 period employer and to which the entire contributions were provided
28 by such employer, except that: (1) If the entire contributions to such
29 plan were provided by the base period employer but such individual's
30 weekly benefit amount exceeds such governmental or other pension,
31 retirement or retired pay, annuity or other similar periodic payment
32 attributable to such week, the weekly benefit amount payable to the
33 individual shall be reduced, but not below zero, by an amount equal to
34 the amount of such pension, retirement or retired pay, annuity or
35 other similar periodic payment which is attributable to such week; or
36 (2) if only a portion of contributions to such plan were provided by the
37 base period employer, the weekly benefit amount payable to such
38 individual for such week shall be reduced, but not below zero, by the
39 prorated weekly amount of the pension, retirement or retired pay,
40 annuity or other similar periodic payment after deduction of that
41 portion of the pension, retirement or retired pay, annuity or other
42 similar periodic payment that is directly attributable to the percentage
43 of the contributions made to the plan by such individual; or (3) if the

1 entire contributions to the plan were provided by such individual, or
2 by the individual and an employer, or any person or organization, who
3 is not a base period employer, no reduction in the weekly benefit
4 amount payable to the individual for such week shall be made under
5 this subsection; or (4) whatever portion of contributions to such plan
6 were provided by the base period employer, if the services performed
7 for the employer by such individual during the base period, or
8 remuneration received for the services, did not affect the individual's
9 eligibility for, or increased the amount of, such pension, retirement or
10 retired pay, annuity or other similar periodic payment, no reduction in
11 the weekly benefit amount payable to the individual for such week
12 shall be made under this subsection. No reduction shall be made for
13 payments made under the social security act or railroad retirement act
14 of 1974.

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

23 (p) For any week of unemployment on the basis of service as a
24 school bus or other motor vehicle driver employed by a private
25 contractor to transport pupils, students and school personnel to or
26 from school-related functions or activities for an educational
27 institution, as defined in ~~subsection (v) of~~ K.S.A. 44-703(v), and
28 amendments thereto, if such week begins during the period between
29 two successive academic years or during a similar period between two
30 regular terms, whether or not successive, if the individual has a
31 contract or contracts, or a reasonable assurance thereof, to perform
32 services in any such capacity with a private contractor for any
33 educational institution for both such academic years or both such
34 terms. An individual shall not be disqualified for benefits as provided
35 in this subsection for any week of unemployment on the basis of
36 service as a bus or other motor vehicle driver employed by a private
37 contractor to transport persons to or from nonschool-related functions
38 or activities.

39 (q) For any week of unemployment on the basis of services
40 performed by the individual in any capacity and under any of the
41 circumstances described in subsection (i), (j), (k) or (o) which are
42 provided to or on behalf of an educational institution, as defined in
43 ~~subsection (v) of~~ K.S.A. 44-703(v), and amendments thereto, while the

1 individual is in the employ of an employer which is a governmental
2 entity, Indian tribe or any employer described in section 501(c)(3) of
3 the federal internal revenue code of 1986 which is exempt from
4 income under section 501(a) of the code.

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

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

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

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

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

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

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

35 (t) (1) Any applicant for or recipient of unemployment benefits
36 who tests positive for unlawful use of a controlled substance or
37 controlled substance analog shall be required to complete a substance
38 abuse treatment program approved by the secretary of labor,
39 secretary of commerce or secretary for children and families, and a
40 job skills program approved by the secretary of labor, secretary of
41 commerce or the secretary for children and families. Subject to
42 applicable federal laws, any applicant for or recipient of
43 unemployment benefits who fails to complete or refuses to participate

1 in the substance abuse treatment program or job skills program as
2 required under this subsection shall be ineligible to receive
3 unemployment benefits until completion of such substance abuse
4 treatment and job skills programs. Upon completion of both substance
5 abuse treatment and job skills programs, such applicant for or
6 recipient of unemployment benefits may be subject to periodic drug
7 screening, as determined by the secretary of labor. Upon a second
8 positive test for unlawful use of a controlled substance or controlled
9 substance analog, an applicant for or recipient of unemployment
10 benefits shall be ordered to complete again a substance abuse
11 treatment program and job skills program, and shall be terminated
12 from unemployment benefits for a period of 12 months, or until such
13 applicant for or recipient of unemployment benefits completes both
14 substance abuse treatment and job skills programs, whichever is later.
15 Upon a third positive test for unlawful use of a controlled substance or
16 controlled substance analog, an applicant for or a recipient of
17 unemployment benefits shall be terminated from receiving
18 unemployment benefits, subject to applicable federal law.

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

26 (u) If the individual was found not to have a disqualifying
27 adjudication or conviction under K.S.A. 39-970 or 65-5117, and
28 amendments thereto, was hired and then was subsequently convicted
29 of a disqualifying felony under K.S.A. 39-970 or 65-5117, and
30 amendments thereto, and discharged pursuant to K.S.A. 39-970 or 65-
31 5117, and amendments thereto. The disqualification shall begin the
32 day following the separation and shall continue until after the
33 individual becomes reemployed and has had earnings from insured
34 work of at least three times the individual's determined weekly benefit
35 amount.

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

1 **Sec. 5. K.S.A. 2014 Supp. 44-709 is hereby amended to read as**
2 **follows: 44-709. (a) *Filing.* Claims for benefits shall be made in**
3 **accordance with rules and regulations adopted by the secretary. The**
4 **secretary shall furnish a copy of such rules and regulations to any**
5 **individual requesting them. Each employer shall post and maintain**
6 **printed statements furnished by the secretary without cost to the**
7 **employer in places readily accessible to individuals in the service of**
8 **the employer.**

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

42 **(2) The examiner may for good cause reconsider the examiner's**
43 **decision and shall promptly notify the claimant and the most recent**

1 employing unit of the claimant, that the decision of the examiner is to
2 be reconsidered, except that no reconsideration shall be made after the
3 termination of the benefit year.

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

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

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

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

37 (f) *Board of review.* (1) There is hereby created an employment
38 security board of review, hereinafter referred to as the board,
39 consisting of three members. Each member of the board shall be
40 appointed for a term of four years as provided in this subsection. Not
41 more than two members of the board shall belong to the same political
42 party.

43 (2) When a vacancy on the employment security board of review

1 occurs, the workers compensation and employment security boards
2 nominating committee established under K.S.A. 44-551, and
3 amendments thereto, shall convene and submit a nominee to the
4 governor for appointment to each vacancy on the employment
5 security board of review, subject to confirmation by the senate as
6 provided by K.S.A. 75-4315b, and amendments thereto. The governor
7 shall either: (A) Accept and submit to the senate for confirmation the
8 person nominated by the nominating committee; or (B) reject the
9 nomination and request the nominating committee to nominate
10 another person for that position. Except as provided by K.S.A. 46-
11 2601, and amendments thereto, no person appointed to the
12 employment security board of review, whose appointment is subject to
13 confirmation by the senate, shall exercise any power, duty or function
14 as a member until confirmed by the senate.

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

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

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

29 (6) The employment security board of review shall organize
30 annually by the election of a chairperson from among its members.
31 The chairperson shall serve in that capacity for a term of one year and
32 until a successor is elected. The board shall meet on the first Monday
33 of each month or on the call of the chairperson or any two members of
34 the board at the place designated. The secretary of labor shall appoint
35 an executive secretary of the board and the executive secretary shall
36 attend the meetings of the board.

37 (7) The employment security board of review, on its own motion,
38 may affirm, modify or set aside any decision of a referee on the basis
39 of the evidence previously submitted in the case; may direct the taking
40 of additional evidence; or may permit any of the parties to initiate
41 further appeal before it. The board shall permit such further appeal
42 by any of the parties interested in a decision of a referee which
43 overrules or modifies the decision of an examiner. The board may

1 remove to itself the proceedings on any claim pending before a referee.
2 Any proceedings so removed to the board shall be heard in
3 accordance with the requirements of subsection (c). The board shall
4 promptly notify the interested parties of its findings and decision.

5 (8) Two members of the employment security board of review
6 shall constitute a quorum and no action of the board shall be valid
7 unless it has the concurrence of at least two members. A vacancy on
8 the board shall not impair the right of a quorum to exercise all the
9 rights and perform all the duties of the board.

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

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

28 (i) ~~Court review~~ *Review of board action.* Any action of the
29 employment security board of review is ~~subject to review~~ may not be
30 reconsidered after the mailing of the decision. An action of the board shall
31 become final unless a petition for review in accordance with the Kansas
32 judicial review act is filed within 16 calendar days after the date of the
33 mailing of the decision. If an appeal has not been filed within 16 calendar
34 days of the date of the mailing of the decision, the decision becomes final.
35 No bond shall be required for commencing an action for such review.
36 In the absence of an action for such review, the action of such board shall
37 become final 16 calendar days after the date of the mailing of the decision.
38 In addition to those persons having standing pursuant to K.S.A. 77-
39 611, and amendments thereto, the examiner shall have standing to
40 obtain judicial review of an action of such board. The review
41 proceeding, and the questions of law certified, shall be heard in a
42 summary manner and shall be given precedence over all other civil
43 cases except cases arising under the workers compensation act.

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

10 (k) In any proceeding or hearing conducted under this section, a
11 party to the proceeding or hearing may appear before a referee or the
12 employment security board of review either personally or by means of
13 a designated representative to present evidence and to state the
14 position of the party. Hearings may be conducted in person, by
15 telephone or other means of electronic communication. The hearing
16 shall be conducted by telephone or other means of electronic
17 communication if none of the parties requests an in-person hearing. If
18 only one party requests an in-person hearing, the referee shall have
19 the discretion of requiring all parties to appear in person or allow the
20 party not requesting an in-person hearing to appear by telephone or
21 other means of electronic communication. The notice of hearing shall
22 include notice to the parties of their right to request an in-person
23 hearing and instructions on how to make the request.

24 Sec. 6. K.S.A. 2014 Supp. 44-714 is hereby amended to read as
25 follows: 44-714. (a) *Duties and powers of secretary.* It shall be the duty
26 of the secretary to administer this act and the secretary shall have
27 power and authority to adopt, amend or revoke such rules and
28 regulations, to employ such persons, make such expenditures, require
29 such reports, make such investigations, and take such other action as
30 the secretary deems necessary or suitable to that end. Such rules and
31 regulations may be adopted, amended, or revoked by the secretary
32 only after public hearing or opportunity to be heard thereon. The
33 secretary shall determine the organization and methods of procedure
34 in accordance with the provisions of this act, and shall have an official
35 seal which shall be judicially noticed. The secretary shall make and
36 submit reports for the administration of the employment security law
37 in the manner prescribed by K.S.A. 75-3044 to 75-3046, inclusive, and
38 75-3048, and amendments thereto. Whenever the secretary believes
39 that a change in contribution or benefit rates will become necessary to
40 protect the solvency of the fund, the secretary shall promptly so
41 inform the governor and the legislature, and make recommendations
42 with respect thereto.

43 (b) *Publication.* The secretary shall cause to be printed for

1 **distribution to the public the text of this act, the secretary's rules and**
2 **regulations and any other material the secretary deems relevant and**
3 **suitable and shall furnish the same to any person upon application**
4 **therefor.**

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

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

1 months, or both.

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

14 (e) *Records and reports.* Each employing unit shall keep true and
15 accurate work records, containing such information as the secretary
16 may prescribe. Such records shall be open to inspection and subject to
17 being copied by the secretary or the secretary's authorized
18 representatives at any reasonable time and shall be preserved for a
19 period of five years from the due date of the contributions or
20 payments in lieu of contributions for the period to which they relate.
21 Only one audit shall be made of any employer's records for any given
22 period of time. Upon request the employing unit shall be furnished a
23 copy of all findings by the secretary or the secretary's authorized
24 representatives, resulting from such audit. A special inquiry or special
25 examination made for a specific and limited purpose shall not be
26 considered to be an audit for the purpose of this subsection. The
27 secretary may require from any employing unit any sworn or unsworn
28 reports, with respect to persons employed by it, which the secretary
29 deems necessary for the effective administration of this act.
30 Information thus obtained or obtained from any individual pursuant
31 to the administration of this act shall be held confidential, except to
32 the extent necessary for the proper presentation of a claim by an
33 employer or employee under the employment security law, and shall
34 not be published or be open to public inspection, other than to public
35 employees in the performance of their public duties, in any manner
36 revealing the individual's or employing unit's identity. The secretary
37 may publish or otherwise disclose appeals records and decisions, and
38 precedential determinations on coverage of employers, employment
39 and wages, provided all social security numbers have been removed.
40 Any claimant or employing unit or their representatives at a hearing
41 before an appeal tribunal or the secretary shall be supplied with
42 information from such records to the extent necessary for the proper
43 presentation of the claim. The transcript made at any such benefits

1 hearing shall not be discoverable or admissible in evidence in any
2 other proceeding, hearing or determination of any kind or nature. In
3 the event of any appeal of a benefits matter, the transcript shall be
4 sealed by the hearing officer and shall be available only to any
5 reviewing authority who shall reseal the transcript after making a
6 review of it. In no event shall such transcript be deemed a public
7 record. Nothing in this subsection—(e) shall be construed to prohibit
8 disclosure of any information obtained under the employment security
9 law, including hearing transcripts, upon request of either of the
10 parties, for the purpose of administering or adjudicating a claim for
11 benefits under the provisions of any other state program, except that
12 any party receiving such information shall be prohibited from further
13 disclosure and shall be subject to the same duty of confidentiality
14 otherwise imposed by this subsection—(e) and shall be subject to the
15 penalties imposed by this subsection—(e) for violations of such duty of
16 confidentiality. Nothing in this subsection—(e) shall be construed to
17 prohibit disclosure of any information obtained under the
18 employment security law, including hearing transcripts, for use as
19 evidence in a criminal investigation or in open court in a criminal
20 prosecution or at an appeal hearing under the employment security
21 law. Nothing in this subsection shall be construed to prohibit
22 disclosure of any information obtained under the employment security
23 law, including hearing transcripts to an agent or contractor of a public
24 official to whom disclosure is permissible under the employment
25 security law, except that any party receiving such information shall be
26 prohibited from further disclosure and shall be subject to the same
27 duty of confidentiality otherwise imposed by this subsection and shall
28 be subject to the penalties imposed by this subsection for violations of
29 such duty of confidentiality. If the secretary or any officer or employee
30 of the secretary violates any provisions of this subsection (e), the
31 secretary or such officer or employee shall be fined not less than \$20
32 nor more than \$200 or imprisoned for not longer than 90 days, or
33 both. Original records of the agency and original paid benefit
34 warrants of the state treasurer may be made available to the
35 employment security agency of any other state or the federal
36 government to be used as evidence in prosecution of violations of the
37 employment security law of such state or federal government.
38 Photostatic copies of such records shall be made and where possible
39 shall be substituted for original records introduced in evidence and
40 the originals returned to the agency.

41 (f) *Oaths and witnesses.* In the discharge of the duties imposed by
42 the employment security law, the chairperson of an appeal tribunal,
43 an appeals referee, the secretary or any duly authorized representative

1 of the secretary shall have power to administer oaths and affirmations,
2 take depositions, issue interrogatories, certify to official acts, and issue
3 subpoenas to compel the attendance of witnesses and the production of
4 books, papers, correspondence, memoranda and other records
5 deemed necessary as evidence in connection with a disputed claim or
6 the administration of the employment security law.

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

15 (1) *Individual.* Service upon an individual, other than a minor or
16 incapacitated person, shall be made: (A) By delivering a copy of the
17 subpoena to the individual personally; (B) by leaving a copy at such
18 individual's dwelling house or usual place of abode with some person
19 of suitable age and discretion then residing therein; (C) by leaving a
20 copy at the business establishment of the employer with an officer or
21 employee of the establishment; (D) by delivering a copy to an agent
22 authorized by appointment or by law to receive service of process, but
23 if the agent is one designated by a statute to receive service, such
24 further notice as the statute requires shall be given; or (E) if service as
25 prescribed above in subparagraphs (A), (B), (C) or (D) cannot be
26 made with due diligence, by leaving a copy of the subpoena at the
27 individual's dwelling house, usual place of abode or usual business
28 establishment, and by mailing a notice by first-class mail to the place
29 that the copy has been left.

30 (2) *Corporations and partnerships.* Service upon a domestic or
31 foreign corporation or upon a partnership or other unincorporated
32 association, when by law it may be sued as such, shall be made by
33 delivering a copy of the subpoena to an officer, partner or resident
34 managing or general agent thereof, or by leaving the copy at any
35 business office of the employer with the person having charge thereof
36 or by delivering a copy to any other agent authorized by appointment
37 or required by law to receive service of process, if the agent is one
38 authorized by law to receive service and, if the law so requires, by also
39 mailing a copy to the employer.

40 (3) *Refusal to accept service.* In all cases when the person to be
41 served, or an agent authorized by such person to accept service of
42 petitions and summonses shall refuse to receive copies of the
43 subpoena, the offer of the duly authorized process server to deliver

1 copies thereof and such refusal shall be sufficient service of such
2 subpoena.

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

8 (B) If service of the subpoena is made by a person appointed by
9 the secretary or the secretary's designee to make service, or any other
10 person described in subsection (g) ~~of this section~~, such person shall
11 make an affidavit as to the time, place and manner of service thereof
12 in a form prescribed by the secretary or the secretary's designee.

13 (5) *Time for return.* The officer or other person receiving a
14 subpoena shall make a return of service promptly and shall send such
15 return to the secretary or the secretary's designee in any event within
16 10 days after the service is effected. If the subpoena cannot be served
17 it shall be returned to the secretary or the secretary's designee within
18 30 days after the date of issue with a statement of the reason for the
19 failure to serve the same.

20 (h) *Subpoenas, enforcement.* In case of contumacy by or refusal to
21 obey a subpoena issued to any person, any court of this state within
22 the jurisdiction of which the inquiry is carried on or within the
23 jurisdiction of which such person guilty of contumacy or refusal to
24 obey is found, resides or transacts business, upon application by the
25 secretary or the secretary's duly authorized representative, shall have
26 jurisdiction to issue to such person an order requiring such person to
27 appear before the secretary, or the secretary's duly authorized
28 representative, to produce evidence, if so ordered, or to give testimony
29 relating to the matter under investigation or in question. Failure to
30 obey such order of the court may be punished by the court as a
31 contempt thereof. Any person who, without just cause, shall fail or
32 refuse to attend and testify or to answer any lawful inquiry or to
33 produce books, papers, correspondence, memoranda or other records
34 in obedience to the subpoena of the secretary or the secretary's duly
35 authorized representative shall be punished by a fine of not less than
36 \$200 or by imprisonment of not longer than 60 days, or both, and each
37 day such violation continued shall be deemed to be a separate offense.

38 (i) *State-federal cooperation.* In the administration of this act, the
39 secretary shall cooperate to the fullest extent consistent with the
40 provisions of this act, with the federal security agency, shall make such
41 reports, in such form and containing such information as the federal
42 security administrator may from time to time require, and shall
43 comply with such provisions as the federal security administrator may

1 from time to time find necessary to assure the correctness and
2 verification of such reports; and shall comply with the regulations
3 prescribed by the federal security agency governing the expenditures
4 of such sums as may be allotted and paid to this state under title III of
5 the social security act for the purpose of assisting in the
6 administration of this act. Upon request therefor the secretary shall
7 furnish to any agency of the United States charged with the
8 administration of public works or assistance through public
9 employment, the name, address, ordinary occupation, and
10 employment status of each recipient of benefits and such recipient's
11 rights to further benefits under this act.

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

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

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

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

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

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

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

34 **(C) the administration of this act and of other state and federal**
35 **unemployment compensation and public employment service laws will**
36 **be promoted by cooperation between this state and such other states**
37 **and the appropriate federal agencies in exchanging services and in**
38 **making available facilities and information; the secretary is therefore**
39 **authorized to make such investigations, secure and transmit such**
40 **information, make available such services and facilities and exercise**
41 **such of the other powers provided herein with respect to the**
42 **administration of this act as the secretary deems necessary or**
43 **appropriate to facilitate the administration of any such unemployment**

1 compensation or public employment service law and, in like manner,
2 to accept and utilize information, service and facilities made available
3 to this state by the agency charged with the administration of any such
4 other unemployment compensation or public employment service law;
5 and

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

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

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

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

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

42 Sec. 7. K.S.A. 2014 Supp. 44-717 is hereby amended to read as
43 follows: 44-717. (a) (1) *Penalties on past-due reports, interest on past-*

1 *due contributions, payments in lieu of contributions, benefit cost*
2 *payments and interest assessments made under K.S.A. 44-710a, and*
3 *amendments thereto.* Any employer or any officer or agent of an
4 employer, who fails to file any wage report or contribution return by
5 the last day of the month following the close of each calendar quarter
6 to which they are related shall pay a penalty as provided by this
7 subsection for each month or fraction of a month until the report or
8 return is received by the secretary of labor except that for calendar
9 years 2010 and 2011 an employer or any officer or agent of the
10 employer shall have up to 90 days past the due date for any of the first
11 three calendar quarters in a calendar year to pay such employer's
12 contribution without being charged any interest, however, when the 90
13 day period has passed, the provisions of this section shall apply. The
14 penalty for each month or fraction of a month shall be an amount
15 equal to .05% of the total wages paid by the employer during the
16 quarter, except that no penalty shall be less than \$25 nor more than
17 \$200 for each such report or return not timely filed. Contributions,
18 benefit cost payments and interest assessments made pursuant to
19 K.S.A. 44-710a, and amendments thereto, unpaid by the last day of the
20 month following the last calendar quarter to which they are related
21 and payments in lieu of contributions unpaid 30 days after the mailing
22 of the statement of benefit charges, shall bear interest at the rate of
23 1% per month or fraction of a month until payment is received by the
24 secretary of labor except that an employing unit, which is not
25 theretofore subject to this law and which becomes an employer and
26 does not refuse to make the reports, returns and contributions,
27 payments in lieu of contributions and benefit cost payments required
28 under this law, shall not be liable for such penalty or interest if the
29 wage reports and contribution returns required are filed and the
30 contributions, payments in lieu of contributions or benefit cost
31 payments required are paid within 10 days following notification by
32 the secretary of labor that a determination has been made fixing its
33 status as an employer subject to this law. Upon written request and
34 good cause shown, the secretary of labor may abate any penalty or
35 interest or portion thereof provided for by this subsection. Interest
36 amounting to less than \$5 shall be waived by the secretary of labor
37 and shall not be collected. Penalties and interest collected pursuant to
38 this subsection shall be paid into the special employment security
39 fund. For all purposes under this section, amounts assessed as
40 surcharges under subsection (j) or under K.S.A. 44-710a, and
41 amendments thereto, shall be considered to be contributions and shall
42 be subject to penalties and interest imposed under this section and to
43 collection in the manner provided by this section. For all purposes

1 under this section, amounts assessed under K.S.A. 44-710a, and
2 amendments thereto, shall be subject to penalties and interest imposed
3 under this section and to collection in the manner provided in this
4 section. For purposes of this subsection, a wage report, a contribution
5 return, a contribution, a payment in lieu of contribution, a benefit cost
6 payment or an interest assessment made pursuant to K.S.A. 44-710a,
7 and amendments thereto, is deemed to be filed or paid as of the date it
8 is placed in the United States mail.

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

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

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

15 (iii) could cause the Indian tribe to be excepted from the
16 definition of "employer," as provided in ~~paragraph (h)(3) of K.S.A. 44-~~
17 ~~703(h)(3), and amendments thereto, and services in the employ of the~~
18 ~~Indian tribe, as provided in ~~paragraph (i)(3)(E) of K.S.A. 44-703(i)(3)~~~~
19 ~~(E), and amendments thereto, to be excepted from "employment."~~

20 (b) *Collection.* (1) If, after due notice, any employer defaults in
21 payment of any penalty, contributions, payments in lieu of
22 contributions, benefit cost payments, interest assessments made
23 pursuant to K.S.A. 44-710a, and amendments thereto, or interest
24 thereon the amount due may be collected by civil action in the name of
25 the secretary of labor and the employer adjudged in default shall pay
26 the cost of such action. Civil actions brought under this section to
27 collect contributions, payments in lieu of contributions, benefit cost
28 payments, interest assessments made pursuant to K.S.A. 44-710a, and
29 amendments thereto, penalties, or interest thereon from an employer
30 shall be heard by the district court at the earliest possible date and
31 shall be entitled to preference upon the calendar of the court over all
32 other civil actions except petitions for judicial review under this act
33 and cases arising under the workmen's compensation act. All liability
34 determinations of contributions due, payments in lieu of
35 contributions, benefit cost payments and interest assessments made
36 pursuant to K.S.A. 44-710a, and amendments thereto, due shall be
37 made within a period of five years from the date such contributions,
38 payments in lieu of contributions, benefit cost payments and interest
39 assessments made pursuant to K.S.A. 44-710a, and amendments
40 thereto, were due except such determinations may be made for any
41 time when an employer has filed fraudulent reports with intent to
42 evade liability.

43 (2) Any employing unit which is not a resident of this state and

1 which exercises the privilege of having one or more individuals
2 perform service for it within this state and any resident employing
3 unit which exercises that privilege and thereafter removes from this
4 state, shall be deemed thereby to appoint the secretary of state as its
5 agent and attorney for the acceptance of process in any civil action
6 under this subsection. In instituting such an action against any such
7 employing unit the secretary of labor shall cause such process or
8 notice to be filed with the secretary of state and such service shall be
9 sufficient service upon such employing unit and shall be of the same
10 force and validity as if served upon it personally within this state. The
11 secretary of labor shall send notice immediately of the service of such
12 process or notice, together with a copy thereof, by registered or
13 certified mail, return receipt requested, to such employing unit at its
14 last-known address and such return receipt, the affidavit of
15 compliance of the secretary of labor with the provisions of this section,
16 and a copy of the notice of service, shall be appended to the original of
17 the process filed in the court in which such civil action is pending.

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

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

41 (d) *Assessments.* If any employer fails to file a report or return
42 required by the secretary of labor for the determination of
43 contributions, or payments in lieu of contributions, or benefit cost

1 payments, the secretary of labor may make such reports or returns or
2 cause the same to be made, on the basis of such information as the
3 secretary may be able to obtain and shall collect the contributions,
4 payments in lieu of contributions or benefit cost payments as
5 determined together with any interest due under this act. The
6 secretary of labor shall immediately forward to the employer a copy of
7 the assessment by registered or certified mail to the employer's
8 address as it appears on the records of the agency, and such
9 assessment shall be final unless the employer protests such assessment
10 and files a corrected report or return for the period covered by the
11 assessment within 15 days after the mailing of the copy of assessment.
12 Failure to receive such notice shall not invalidate the assessment.
13 Notice in writing shall be presumed to have been given when deposited
14 as certified or registered matter in the United States mail, addressed to
15 the person to be charged with notice at such person's address as it
16 appears on the records of the agency.

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

43 (2) *Authority of secretary or authorized representative.* If any

1 employer or person who is liable to pay any contributions, payments
2 in lieu of contributions, benefit cost payments and interest assessments
3 made pursuant to K.S.A. 44-710a, and amendments thereto, including
4 interest and penalty, neglects or refuses to pay the same within 10 days
5 after notice and demand therefor, the secretary or the secretary's
6 authorized representative may collect such contributions, payments in
7 lieu of contributions, benefit cost payments and interest assessments
8 made pursuant to K.S.A. 44-710a, and amendments thereto, including
9 interest and penalty, and such further amount as is sufficient to cover
10 the expenses of the levy, by levy upon all property and rights to
11 property which belong to the employer or person or which have a lien
12 created thereon by this subsection for the payment of such
13 contributions, payments in lieu of contributions, benefit cost payments
14 and interest assessments made pursuant to K.S.A. 44-710a, and
15 amendments thereto, including interest and penalty. As used in this
16 subsection, "property" includes all real property and personal
17 property, whether tangible or intangible, except such property which
18 is exempt under K.S.A. 60-2301 et seq., and amendments thereto. Levy
19 may be made upon the accrued salary or wages of any officer,
20 employee or elected official of any state or local governmental entity
21 which is subject to K.S.A. 60-723, and amendments thereto, by serving
22 a notice of levy as provided in ~~subsection (d)~~ of K.S.A. 60-304(d), and
23 amendments thereto. If the secretary or the secretary's authorized
24 representative makes a finding that the collection of the amount of
25 such contributions, payments in lieu of contributions, benefit cost
26 payments and interest assessments made pursuant to K.S.A. 44-710a,
27 and amendments thereto, including interest and penalty, is in
28 jeopardy, notice and demand for immediate payment of such amount
29 may be made by the secretary or the secretary's authorized
30 representative and, upon failure or refusal to pay such amount,
31 immediate collection of such amount by levy shall be lawful without
32 regard to the 10-day period provided in this subsection.

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

40 (4) *Successive seizures.* Whenever any property or right to
41 property upon which levy has been made under this subsection is not
42 sufficient to satisfy the claim of the secretary for which levy is made,
43 the secretary or the secretary's authorized representative may proceed

1 thereafter and as often as may be necessary, to levy in like manner
2 upon any other property or rights to property which belongs to the
3 employer or person against whom such claim exists or upon which a
4 lien is created by this subsection until the amount due from the
5 employer or person, together with all expenses, is fully paid.

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

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

34 (2) *Corporations and partnerships.* Service upon a domestic or
35 foreign corporation or upon a partnership or other unincorporated
36 association, when by law it may be sued as such, shall be made by
37 delivering a copy of the final notice to an officer, partner or resident
38 managing or general agent thereof by leaving a copy at any business
39 office of the employer with the person having charge thereof or by
40 delivering a copy to any other agent authorized by appointment or
41 required by law to receive service of process, if the agent is one
42 authorized by law to receive service and, if the law so requires, by also
43 mailing a copy to the employer.

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

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

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

15 **(5) Time for return.** The officer or other person receiving a final
16 notice shall make a return of service promptly and shall send such
17 return to the secretary or the secretary's designee in any event within
18 10 days after the service is effected. If the final notice cannot be served
19 it shall be returned to the secretary or the secretary's designee within
20 30 days after the date of issue with a statement of the reason for the
21 failure to serve the same. The original return shall be attached to and
22 filed with any warrant thereafter filed.

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

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

42 **(C)** The clerk shall enter, on the day the warrant is filed, the case
43 on the appearance docket, together with the amount and the time of

1 filing the warrant. From the time of filing such warrant, the amount of
2 the contributions, payments in lieu of contributions, benefit cost
3 payments, interest assessments made pursuant to K.S.A. 44-710a, and
4 amendments thereto, interest, and penalty, certified therein, shall have
5 the force and effect of a judgment of the district court until the same is
6 satisfied by the secretary of labor or an authorized representative or
7 attorney for the secretary. Execution shall be issuable at the request of
8 the secretary of labor, an authorized representative or attorney for the
9 secretary, as is provided in the case of other judgments.

10 (D) Postjudgment procedures shall be the same as for judgments
11 according to the code of civil procedure.

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

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

27 (h) *Refunds.* If any individual, governmental entity or
28 organization makes application for refund or adjustment of any
29 amount paid as contributions, benefit cost payments, interest
30 assessments made pursuant to K.S.A. 44-710a, and amendments
31 thereto, or interest under this law and the secretary of labor
32 determines that such amount or any portion thereof was erroneously
33 collected, except for amounts less than \$5, the secretary of labor shall
34 allow such individual or organization to make an adjustment thereof,
35 in connection with subsequent contribution payments, or if such
36 adjustment cannot be made the secretary of labor shall refund the
37 amount, except for amounts less than \$5, from the employment
38 security fund, except that all interest erroneously collected which has
39 been paid into the special employment security fund shall be refunded
40 out of the special employment security fund. No adjustment or refund
41 shall be allowed with respect to a payment as contributions, interest
42 assessments made pursuant to K.S.A. 44-710a, and amendments
43 thereto, or interest unless an application therefor is made on or before

1 whichever of the following dates is later: (1) One year from the date on
2 which such payment was made; or (2) three years from the last day of
3 the period with respect to which such payment was made. For like
4 cause and within the same period adjustment or refund may be so
5 made on the secretary's own initiative. The secretary of labor shall not
6 be required to refund any contributions, payments in lieu of
7 contributions or benefit cost payments based upon wages paid which
8 have been used as base-period wages in a determination of a
9 claimant's benefit rights when justifiable and correct payments have
10 been made to the claimant as the result of such determination. For all
11 taxable years commencing after December 31, 1997, interest at the
12 rate prescribed in K.S.A. 79-2968, and amendments thereto, shall be
13 allowed on a contribution or benefit cost payment which the secretary
14 has determined was erroneously collected pursuant to this section.

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

24 (2) The amount of such cash deposit or bond shall be not less than
25 the largest total amount of contributions, interest assessments made
26 pursuant to K.S.A. 44-710a, and amendments thereto, penalty and
27 interest reported by the employer in two of the four calendar quarters
28 preceding any delinquency. Such cash deposit or bond shall be
29 required until the employer has shown timely filing of reports and
30 payment of contributions and interest assessments made pursuant to
31 K.S.A. 44-710a, and amendments thereto, for four consecutive
32 calendar quarters.

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

43 (j) Any officer, major stockholder or other person who has charge

1 of the affairs of an employer, which is an employing unit described in
2 section 501(c)(3) of the federal internal revenue code of 1954 or which
3 is any other corporate organization or association, or any member or
4 manager of a limited liability company, or any public official, who
5 willfully fails to pay the amount of contributions, payments in lieu of
6 contributions, benefit cost payments and interest assessments made
7 pursuant to K.S.A. 44-710a, and amendments thereto, required to be
8 paid under the employment security law on the date on which such
9 amount becomes delinquent, shall be personally liable for the total
10 amount of the contributions, payments in lieu of contributions, benefit
11 cost payments and interest assessments made pursuant to K.S.A. 44-
12 710a, and amendments thereto, and any penalties and interest due and
13 unpaid by such employing unit. The secretary or the secretary's
14 authorized representative may assess such person for the total amount
15 of contributions, payments in lieu of contributions, benefit cost
16 payments and interest assessments made pursuant to K.S.A. 44-710a,
17 and amendments thereto, and any penalties, and interest computed as
18 due and owing. With respect to such persons and such amounts
19 assessed, the secretary shall have available all of the collection
20 remedies authorized or provided by this section.

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

28 (1) ~~Wage reports, contribution returns and payments due after June~~
29 ~~30, 2008, for those employers with 250 or more employees or third party~~
30 ~~administrators with 250 or more client employees at the time such filing or~~
31 ~~payment is first due;~~

32 (2) ~~wage reports, contribution returns and payments due after June~~
33 ~~30, 2009, for those employers with 100 or more employees or third party~~
34 ~~administrators with 100 or more client employees at the time such filing or~~
35 ~~payment is first due; and~~

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

41 (2) *wage reports, contribution returns, payments and interest*
42 *assessments made pursuant to K.S.A. 44-710a, and amendments thereto,*
43 *due after June 30, 2016, for all employers and third party administrators.*

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

4 ~~Sec. 3-4.8.~~ K.S.A. 2014 Supp. 44-704 ~~and, 44-706, 44-709,~~ 44-710a,
5 **44-714, 44-717 and 44-757** are hereby repealed.

6 ~~Sec. 4-5.9.~~ This act shall take effect and be in force from and after
7 its publication in the statute book.