

HOUSE BILL No. 2401

By Committee on Commerce, Labor and Economic Development

2-10

1 AN ACT concerning employment security law; relating to the definition of
2 "benefit year" and "temporary unemployment"; requiring electronic
3 filing of wage reports, contribution returns and payments and interest
4 assessments for employers with 25 or more employees; permitting the
5 exercise of discretion in the number of appointments and length of
6 terms with respect to the temporarily expanded employment security
7 board of review members; extending when the mandatory combination
8 of rates and the establishment of a new account due to a business
9 acquisition must occur from the beginning of the following quarter to
10 the beginning of the following year; amending K.S.A. 44-709 and 44-
11 717 and K.S.A. 2022 Supp. 44-703 and 44-710a and repealing the
12 existing sections.
13

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

15 Section 1. K.S.A. 2022 Supp. 44-703 is hereby amended to read as
16 follows: 44-703. As used in this act, unless the context clearly requires
17 otherwise:

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

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

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

35 (b) "Base period" means the first four of the last five completed
36 calendar quarters immediately preceding the first day of an individual's

1 benefit year, except that the base period in respect to combined wage
2 claims means the base period as defined in the law of the paying state.

3 (1) If an individual lacks sufficient base period wages in order to
4 establish a benefit year in the manner set forth above and satisfies the
5 requirements of *subsection (hh) and K.S.A. 44-705(g) and K.S.A. 44-*
6 ~~703(hh)~~, and amendments thereto, the claimant shall have an alternative
7 base period substituted for the current base period so as not to prevent
8 establishment of a valid claim. For the purposes of this subsection,
9 "alternative base period" means the last four completed quarters
10 immediately preceding the date the qualifying injury occurred. In the event
11 the wages in the alternative base period have been used on a prior claim,
12 then they shall be excluded from the new alternative base period.

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

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

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

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

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

42 (f) (1) "Contributions" means the money payments to the state
43 employment security fund that are required to be made by employers on

1 account of employment under K.S.A. 44-710, and amendments thereto,
2 and voluntary payments made by employers pursuant to such statute.

3 (2) "Payments in lieu of contributions" means the money payments to
4 the state employment security fund from employers that are required to
5 make or that elect to make such payments under K.S.A. 44-710(e), and
6 amendments thereto.

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

24 (h) "Employer" means:

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

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

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

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

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

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

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

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

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

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

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

22 (2) (A) Any employing unit that for calendar year 2007 and each
23 calendar year thereafter: (i) In any calendar quarter in either the current or
24 preceding calendar year paid for services in employment wages of \$1,500
25 or more; (ii) for some portion of a day in each of 20 different calendar
26 weeks, whether or not such weeks were consecutive, in either the current
27 or preceding calendar year, had in employment at least one individual,
28 whether or not the same individual was in employment in each such day;
29 or (iii) elects to have an unemployment tax account established at the time
30 of initial registration in accordance with K.S.A. 44-711(c), and
31 amendments thereto.

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

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

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

43 (B) any employing unit that is controlled substantially, either directly

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

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

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

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

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

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

31 (i) "Employment" means:

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

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

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

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

41 (i) As an agent-driver or commission-driver engaged in distributing
42 meat products, vegetable products, fruit products, bakery products,
43 beverages, other than milk, or laundry or dry-cleaning services, for such

1 individual's principal; or

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

9 For purposes of subsection (i)(1)(C), the term "employment" includes
10 services described in paragraphs (i) and (ii) above only if:

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

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

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

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

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

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

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

28 (3) The term "employment" also includes:

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

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

42 (C) Services covered by an arrangement pursuant to K.S.A. 44-
43 714(j), and amendments thereto, between the secretary and the agency

1 charged with the administration of any other state or federal
2 unemployment compensation law, pursuant to which all services
3 performed by an individual for an employing unit are deemed to be
4 performed entirely within this state, shall be deemed to be employment if
5 the secretary has approved an election of the employing unit for whom
6 such services are performed, pursuant to which the entire service of such
7 individual during the period covered by such election is deemed to be
8 insured work.

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

14 (E) Services performed by an individual in the employ of a state or
15 any instrumentality thereof, any political subdivision of a state or any
16 instrumentality thereof, or in the employ of an Indian tribe, as defined
17 pursuant to section 3306(u) of the federal unemployment tax act, any
18 instrumentality of more than one of the foregoing or any instrumentality
19 that is jointly owned by this state or a political subdivision thereof or
20 Indian tribes and one or more other states or political subdivisions of this
21 or other states, provided that such service is excluded from "employment"
22 as defined in the federal unemployment tax act by reason of section
23 3306(c)(7) of that act and is not excluded from "employment" under
24 subsection (i)(4)(A) of this section. For purposes of this section, the
25 exclusions from employment in subsections (i)(4)(A) and (i)(4)(L) shall
26 also be applicable to services performed in the employ of an Indian tribe.

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

32 (G) The term "employment" includes the services of an individual
33 who is a citizen of the United States, performed outside the United States
34 except in Canada, in the employ of an American employer, other than
35 service that is deemed "employment" under the provisions of subsection (i)
36 (2) or subsection (i)(3) or the parallel provisions of another state's law, if:

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

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

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

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

43 (c) the employer is a partnership or a trust and the number of the

1 partners or trustees who are residents of this state is greater than the
2 number who are residents of any other state; or

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

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

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

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

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

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

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

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

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

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

35 (i) As an elected official;

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

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

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

41 (v) in a position that, under or pursuant to the laws of this state or
42 tribal law, is designated as a major nontenured policymaking or advisory
43 position or as a policymaking or advisory position the performance of the

1 duties of which ordinarily does not require more than eight hours per
2 week;

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

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

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

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

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

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

40 (H) services performed in any calendar quarter in the employ of any
41 organization exempt from income tax under section 501(a) of the federal
42 internal revenue code of 1986, other than an organization described in
43 section 401(a) or under section 521 of such code, if the remuneration for

1 such service is less than \$50. In construing the application of the term
2 "employment," if services performed during $\frac{1}{2}$ or more of any pay period
3 by an individual for the person employing such individual constitute
4 employment, all the services of such individual for such period shall be
5 deemed to be employment; but if the services performed during more than
6 $\frac{1}{2}$ of any such pay period by an individual for the person employing such
7 individual do not constitute employment, then none of the services of such
8 individual for such period shall be deemed to be employment. As used in
9 this subsection (i)(4)(H) the term "pay period" means a period, of not more
10 than 31 consecutive days, for which a payment of remuneration is
11 ordinarily made to the individual by the person employing such individual.
12 This subsection (i)(4)(H) shall not be applicable with respect to services
13 with respect to which unemployment compensation is payable under an
14 unemployment compensation system established by an act of congress;

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

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

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

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

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

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

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

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

42 (O) services performed by an individual who is enrolled at a
43 nonprofit or public educational institution that normally maintains a

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

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

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

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

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

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

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

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

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

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

14 Such excluded service shall not include any services performed for an
15 employer that is a governmental entity or any employer described in
16 section 501(c)(3) of the federal internal revenue code of 1986 that is
17 exempt from income taxation under section 501(a) of the code;

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

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

23 (i) Such person:

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

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

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

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

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

43 (W) services performed as an election official or election worker, if

1 the amount of remuneration received by the individual during the calendar
2 year for services as an election official or election worker is less than
3 \$1,000;

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

7 (Y) services performed by an owner-operator of a motor vehicle that
8 is leased or contracted to a licensed motor carrier with the services of a
9 driver and is not treated under the terms of the lease agreement or contract
10 with the licensed motor carrier as an employee for purposes of the federal
11 insurance contribution act, 26 U.S.C. § 3101 et seq., the federal social
12 security act, 42 U.S.C. § 301 et seq., the federal unemployment tax act, 26
13 U.S.C. § 3301 et seq., and the federal statutes prescribing income tax
14 withholding at the source, 26 U.S.C. § 3401 et seq. Employees or agents of
15 the owner-operator shall not be considered employees of the licensed
16 motor carrier for purposes of employment security taxation or
17 compensation. As used in this subsection (Y), the following definitions
18 apply: (i) "Motor vehicle" means any automobile, truck-trailer, semitrailer,
19 tractor, motor bus or any other self-propelled or motor-driven vehicle used
20 upon any of the public highways of Kansas for the purpose of transporting
21 persons or property; (ii) "licensed motor carrier" means any person, firm,
22 corporation or other business entity that holds a certificate of convenience
23 and necessity or a certificate of public service from the state corporation
24 commission or is required to register motor carrier equipment pursuant to
25 49 U.S.C. § 14504; and (iii) "owner-operator" means a person, firm,
26 corporation or other business entity that is the owner of a single motor
27 vehicle that is driven exclusively by the owner under a lease agreement or
28 contract with a licensed motor carrier; and

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

- 34 (i) Negotiating for the acquisition or divestiture of mineral rights;
35 (ii) negotiating business agreements that provide exploration for or
36 development of minerals;
37 (iii) determining ownership in minerals through the research of public
38 and private records;
39 (iv) reviewing the status of title, curing title defects, providing title
40 due diligence and otherwise reducing title risk associated with ownership
41 in minerals or the acquisition and divestiture of mineral properties;
42 (v) managing rights or obligations derived from ownership of
43 interests in minerals; or

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

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

10 (k) "Fund" means the employment security fund established by this
11 act, to which all contributions and reimbursement payments required and
12 from which all benefits provided under this act shall be paid and including
13 all money received from the federal government as reimbursements
14 pursuant to section 204 of the federal-state extended compensation act of
15 1970, and amendments thereto.

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

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

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

28 (o) "Wages" means all compensation for services, including
29 commissions, bonuses, back pay and the cash value of all remuneration,
30 including benefits, paid in any medium other than cash. The reasonable
31 cash value of remuneration in any medium other than cash, shall be
32 estimated and determined in accordance with rules and regulations
33 prescribed by the secretary. Compensation payable to an individual that
34 has not been actually received by that individual within 21 days after the
35 end of the pay period in which the compensation was earned shall be
36 considered to have been paid on the 21st day after the end of that pay
37 period. Effective January 1, 1986, gratuities, including tips received from
38 persons other than the employing unit, shall be considered wages when
39 reported in writing to the employer by the employee. Employees must
40 furnish a written statement to the employer, reporting all tips received if
41 they total \$20 or more for a calendar month whether the tips are received
42 directly from a person other than the employer or are paid over to the
43 employee by the employer. This includes amounts designated as tips by a

1 customer who uses a credit card to pay the bill. Notwithstanding the other
2 provisions of this subsection (o), wages paid in back pay awards or
3 settlements shall be allocated to the week or weeks and reported in the
4 manner as specified in the award or agreement, or, in the absence of such
5 specificity in the award or agreement, such wages shall be allocated to the
6 week or weeks in which such wages, in the judgment of the secretary,
7 would have been paid. The term "wages" shall not include:

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

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

43 (3) any payment on account of sickness or accident disability, or

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

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

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

13 (B) under or to an annuity plan that, at the time of such payment, is a
14 plan described in section 403(a) of the federal internal revenue code of
15 1986;

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

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

24 (E) under or to an exempt governmental deferred compensation plan
25 as defined in section 3121(v)(3) of the federal internal revenue code of
26 1986;

27 (F) to supplement pension benefits under a plan or trust described in
28 any of the foregoing provisions of this subparagraph to take into account
29 some portion or all of the increase in the cost of living, as determined by
30 the secretary of labor, since retirement but only if such supplemental
31 payments are under a plan that is treated as a welfare plan under section
32 3(2)(B)(ii) of the federal employee retirement income security act of 1974;
33 or

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

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

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

43 (7) remuneration paid to or on behalf of an employee if and to the

1 extent that at the time of the payment of such remuneration it is reasonable
2 to believe that a corresponding deduction is allowable under section 217 of
3 the federal internal revenue code of 1986 relating to moving expenses;

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

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

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

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

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

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

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

26 (13) any benefit provided to or on behalf of an employee if at the time
27 such benefit is provided it is reasonable to believe that the employee will
28 be able to exclude such benefit from income under section 74(c), 117 or
29 132 of the federal internal revenue code of 1986;

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

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

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

1 of the federal internal revenue code of 1986; or (2) any amount treated as
2 an employer contribution under section 414(h)(2) of the federal internal
3 revenue code of 1986.

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

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

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

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

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

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

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

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

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

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

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

43 Notwithstanding any of the foregoing provisions of this subsection (u),

1 all colleges and universities in this state are institutions of higher education
2 for purposes of this section, except that no college, university, junior
3 college or other postsecondary school or institution that is operated by the
4 federal government or any agency thereof shall be an institution of higher
5 education for purposes of the employment security law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 paying state and as provided by an arrangement so approved by the United
2 States secretary of labor.

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

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

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

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

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

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

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

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

31 (ii) *"Temporary unemployment" means that the individual has been*
32 *laid off due to lack of work by an employing unit for which the individual*
33 *has worked full time and for which the individual reasonably expects to*
34 *resume full-time work at a future date, and that the individual's*
35 *employment with the employing unit, although temporarily suspended, has*
36 *not been terminated. "Temporary unemployment" shall not exceed eight*
37 *consecutive weeks.*

38 Sec. 2. K.S.A. 44-709 is hereby amended to read as follows: 44-709.

39 (a) *Filing.* Claims for benefits shall be made in accordance with rules and
40 regulations adopted by the secretary. The secretary shall furnish a copy of
41 such rules and regulations to any individual requesting them. Each
42 employer shall: (1) Post and maintain printed statements furnished by the
43 secretary without cost to the employer in places readily accessible to

1 individuals in the service of the employer; and (2) provide any other
2 notification to individuals in the service of the employer as required by the
3 secretary pursuant to the families first coronavirus response act, public law
4 116-127.

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

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

41 (3) Notwithstanding the provisions of any other statute, a decision of
42 an examiner or special examiner shall be final unless the claimant or the
43 most recent employing unit of the claimant files an appeal from the

1 decision as provided in subsection (c), except that the time limit for appeal
2 may be waived or extended by the referee or board of review if a timely
3 response was impossible due to excusable neglect. The appeal must be
4 filed within 16 calendar days after the mailing of notice to the last known
5 addresses of the claimant and employing unit or, if notice is not by mail,
6 within 16 calendar days after the delivery of the notice to the parties.

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

19 (d) *Referees*. The secretary shall appoint, in accordance with K.S.A.
20 44-714(c), and amendments thereto, one or more referees to hear and
21 decide disputed claims.

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

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

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

36 (B) ~~On the effective date of this act,~~ The board shall consist of *up to*
37 six members. ~~The six-member~~ board shall consist of the following: (i)
38 Three members appointed under subparagraph (A); and (ii) *up to* three
39 members appointed for a term that shall expire ~~upon~~ *not later than* the
40 expiration of this subparagraph. Each member of the board appointed
41 under subparagraph (B)(ii) shall be appointed as provided in this
42 subsection. Not more than four members of ~~the a six-member board or~~
43 *three members of a four or five-person board* shall belong to the same

1 political party. The provisions of this subparagraph shall expire on June
2 30, 2024.

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

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

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

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

34 (6) The employment security board of review shall organize annually
35 by the election of a chairperson from among its members. The chairperson
36 shall serve in that capacity for a term of one year and until a successor is
37 elected. For the purpose of hearing and determining cases, the board
38 members may sit in panels. A board panel shall consist of three members
39 with not more than two members belonging to the same political party.
40 The chairperson may sit as a member of a panel and shall preside over
41 such panel. When the chairperson is not a member of a hearing panel, the
42 chairperson shall appoint a member of the panel to preside. The board or
43 board panel shall meet on the first Monday of each month or on the call of

1 the chairperson or any two members of the board at the place designated.
2 The secretary of labor shall appoint an executive secretary of the board
3 and the executive secretary or the executive secretary's designee shall
4 attend the meetings of the board and board panels.

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

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

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

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

40 (i) *Review of board action.* Any action of the employment security
41 board of review including that of a board panel, may not be reconsidered
42 after the mailing of the decision. An action of the board or board panel
43 shall become final unless a petition for review in accordance with the

1 Kansas judicial review act is filed within 16 calendar days after the date of
2 the mailing of the decision. If an appeal has not been filed within 16
3 calendar days of the date of the mailing of the decision, the decision
4 becomes final. No bond shall be required for commencing an action for
5 such review. In addition to those persons having standing pursuant to
6 K.S.A. 77-611, and amendments thereto, the examiner shall have standing
7 to obtain judicial review of an action of such board or board panel. The
8 review proceeding, and the questions of law certified, shall be heard in a
9 summary manner and shall be given precedence over all other civil cases
10 except cases arising under the workers compensation act.

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

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

37 Sec. 3. K.S.A. 2022 Supp. 44-710a is hereby amended to read as
38 follows: 44-710a. (a) *Classification of employers by the secretary.* The
39 term "employer" as used in this section refers to contributing employers.
40 The secretary shall classify employers in accordance with their actual
41 experience in the payment of contributions on their own behalf and with
42 respect to benefits charged against their accounts with a view of fixing
43 such contribution rates as will reflect such experience. If, as of the date

1 such classification of employers is made, the secretary finds that any
2 employing unit has failed to file any report required in connection
3 therewith, or has filed a report which the secretary finds incorrect or
4 insufficient, the secretary shall make an estimate of the information
5 required from such employing unit on the basis of the best evidence
6 reasonably available to the secretary at the time, and notify the employing
7 unit thereof by mail addressed to its last known address. Unless such
8 employing unit shall file the report or a corrected or sufficient report as the
9 case may be, within 15 days after the mailing of such notice, the secretary
10 shall compute such employing unit's rate of contributions on the basis of
11 such estimates, and the rate as so determined shall be subject to increase
12 but not to reduction on the basis of subsequently ascertained information.
13 The secretary shall determine the contribution rate of each employer in
14 accordance with the requirements of this section.

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

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

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

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

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

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

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

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

1 account on the computation date.

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

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

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

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

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

37 (D) If the amounts collected from negative account balance
38 employers and paid into the employment security interest assessment fund
39 for the purpose of paying interest due and owing on funds received from
40 the federal unemployment account under title XII of the social security act
41 are in excess of the amounts needed to pay interest due, the amounts in
42 excess shall remain in the employment security interest assessment fund to
43 be used to pay interest in future years. Whenever the secretary certifies all

1 interest payments have been paid, any excess funds remaining in the
2 employment security interest assessment fund shall be transferred to the
3 employment security trust fund for the purpose of paying any remaining
4 principal amount due for advances described in this section. In the event
5 that the amount transferred from the employment security interest
6 assessment fund exceeds such remaining amount of principal due, the
7 balance shall be used for the purposes of the employment security trust
8 fund.

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

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

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

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

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

28 (B) *Effective rates.* (i) Employer contribution rates to be effective for
29 each calendar year shall be determined by the applicable rate schedule in
30 clause (ii) and the fund control table for the rate year as specified
31 contained in this clause. The average high cost multiple of the trust fund as
32 of the computation date shall determine the contribution schedule in effect
33 for the next rate year. For purposes of subsection (a)(4)(B)(i), the average
34 high cost multiple is the reserve fund ratio divided by the average high
35 benefit cost rate. The average high benefit cost rate shall be determined by
36 averaging the three highest benefit cost rates over the last 20 years from
37 the preceding fiscal year which ended June 30. The high benefit cost rate is
38 defined by dividing total benefits paid in the fiscal year by total payrolls
39 for covered employers in the fiscal year. The reserve fund ratio shall be
40 determined by dividing total assets in the employment security fund
41 provided for in K.S.A. 44-712(a), and amendments thereto, excluding all
42 moneys credited to the account of this state pursuant to section 903 of the
43 federal social security act, as amended, that have been appropriated by the

1 legislature, whether or not withdrawn from the trust fund, and excluding
 2 contributions not yet paid on July 31, by total payrolls for contributing
 3 employers for the preceding fiscal year that ended on June 30.

4 Fund Control Table A

5 For Rate Years 2016-2021

6 Lower AHCM	Upper AHCM	Solvency Adjustment
7 Threshold	Threshold	to Rate per
		8 Standard Rate Schedule
9 -1,000.00000	0.19999	1.60%
10 0.20000	0.44999	1.40%
11 0.45000	0.59999	1.20%
12 0.60000	0.74999	1.00%
13 0.75000	1.14999	0.00%
14 1.15000	1,000.00000	-0.50%

15 Fund Control Table B

16 For Rate Year 2022 and Ensuing Calendar Years

17 KS SUTA	Lower	Upper	Solvency/Credit	Solvency/Credit	Solvency/Credit		
18 Tax Rate	AHCM	AHCM	Adjustment to	Adjustment as a	Adjustment as a		
19 Schedules	Threshold	Threshold	Maximum	Rate Group	Total % to		
			Standard Rate	Multiplier to	Employer's		
				Standard, Earned	Standard, Earned		
				Rate Group	Rate Group		
23	1	-1,000.00000	-0.00001	2.00%	0.05263%	26.32%	
24	2	0.00000	0.24999	1.80%	0.04737%	23.68%	
25	Solvency	3	0.25000	0.44999	1.60%	0.04211%	21.05%
26	Schedules	4	0.45000	0.59999	1.40%	0.03684%	18.42%
27	(1-6)	5	0.60000	0.69999	1.20%	0.03158%	15.79%
28		6	0.70000	0.74999	1.00%	0.02632%	13.16%
29	Standard						
30	Schedule	7	0.75000	1.24999	0.00%	0.00000%	0.00%
31	(7)						
32		8	1.25000	1.29999	-1.00%	-0.02632%	-13.16%
33	Credit	9	1.30000	1.39999	-1.20%	-0.03158%	-15.79%
34	Schedules	10	1.40000	1.54999	-1.40%	-0.03684%	-18.42%
35	(8-13)	11	1.55000	1.74999	-1.60%	-0.04211%	-21.05%
36		12	1.75000	1.99999	-1.80%	-0.04737%	-23.68%
37		13	2.00000	1,000.00000	-2.00%	-0.05263%	-26.32%

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

46 (b) (1) In the event the full transfer of \$250,000,000 is not made as
 47 provided in K.S.A. 2022 Supp. 75-5745, and amendments thereto, to the

1 employment security fund on or before July 15, 2021, all contributing
 2 employers shall pay the rate as set forth in standard rate schedule -
 3 standard rate schedule 7 for the 2022 calendar year.

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

12 STANDARD RATE SCHEDULE -
 13 STANDARD RATE SCHEDULE 7

14	Rate	Lower Reserve	Upper Reserve	Standard	
15	Group	Ratio	Limit	Ratio	Rate
16				Limit	
16	1	18.590		1,000,000.000	0.20%
17	2	17.875		18.589	0.40%
18	3	17.160		17.874	0.60%
19	4	16.445		17.159	0.80%
20	5	15.730		16.444	1.00%
21	6	15.015		15.729	1.20%
22	7	14.300		15.014	1.40%
23	8	13.585		14.299	1.60%
24	9	12.870		13.584	1.80%
25	10	12.155		12.869	2.00%
26	11	11.440		12.154	2.20%
27	12	10.725		11.439	2.40%
28	13	10.010		10.724	2.60%
29	14	9.295		10.009	2.80%
30	15	8.580		9.294	3.00%
31	16	7.865		8.579	3.20%
32	17	7.150		7.864	3.40%
33	18	6.435		7.149	3.60%
34	19	5.720		6.434	3.80%
35	20	5.005		5.719	4.00%
36	21	4.290		5.004	4.20%
37	22	3.575		4.289	4.40%
38	23	2.860		3.574	4.60%
39	24	2.145		2.859	4.80%
40	25	1.430		2.144	5.00%
41	26	0.715		1.429	5.20%
42	27	0.000		0.714	5.40%
43	N1	-0.714		-0.001	5.60%

1	N2	-1.429	-0.715	5.80%
2	N3	-2.144	-1.430	6.00%
3	N4	-2.859	-2.145	6.20%
4	N5	-3.574	-2.860	6.40%
5	N6	-4.289	-3.575	6.60%
6	N7	-5.004	-4.290	6.80%
7	N8	-5.719	-5.005	7.00%
8	N9	-6.434	-5.720	7.20%
9	N10	-7.149	-6.435	7.40%
10	N11	-1,000,000.000	-7.150	7.60%

SOLVENCY RATE SCHEDULES (1-6)

12	Rate						
13	Group	1	2	3	4	5	6
14	1	0.25%	0.25%	0.24%	0.24%	0.23%	0.23%
15	2	0.51%	0.49%	0.48%	0.47%	0.46%	0.45%
16	3	0.76%	0.74%	0.73%	0.71%	0.69%	0.68%
17	4	1.01%	0.99%	0.97%	0.95%	0.93%	0.91%
18	5	1.26%	1.24%	1.21%	1.18%	1.16%	1.13%
19	6	1.52%	1.48%	1.45%	1.42%	1.39%	1.36%
20	7	1.77%	1.73%	1.69%	1.66%	1.62%	1.58%
21	8	2.02%	1.98%	1.94%	1.89%	1.85%	1.81%
22	9	2.27%	2.23%	2.18%	2.13%	2.08%	2.04%
23	10	2.53%	2.47%	2.42%	2.37%	2.32%	2.26%
24	11	2.78%	2.72%	2.66%	2.61%	2.55%	2.49%
25	12	3.03%	2.97%	2.91%	2.84%	2.78%	2.72 %
26	13	3.28%	3.22%	3.15%	3.08%	3.01%	2.94%
27	14	3.54%	3.46%	3.39%	3.32%	3.24%	3.17%
28	15	3.79%	3.71%	3.63%	3.55%	3.47%	3.39%
29	16	4.04%	3.96%	3.87%	3.79%	3.71%	3.62%
30	17	4.29%	4.21%	4.12%	4.03%	3.94%	3.85%
31	18	4.55%	4.45%	4.36%	4.26%	4.17%	4.07%
32	19	4.80%	4.70%	4.60%	4.50%	4.40%	4.30%
33	20	5.05%	4.95%	4.84%	4.74%	4.63%	4.53%
34	21	5.31%	5.19%	5.08%	4.97%	4.86%	4.75%
35	22	5.56%	5.44%	5.33%	5.21%	5.09%	4.98%
36	23	5.81%	5.69%	5.57%	5.45%	5.33%	5.21%
37	24	6.06%	5.94%	5.81%	5.68%	5.56%	5.43%
38	25	6.32%	6.18%	6.05%	5.92%	5.79%	5.66%
39	26	6.57%	6.43%	6.29%	6.16%	6.02%	5.88%
40	27	6.82%	6.68%	6.54%	6.39%	6.25%	6.11%
41	N1	7.07%	6.93%	6.78%	6.63%	6.48%	6.34%
42	N2	7.33%	7.17%	7.02%	6.87%	6.72 %	6.56%
43	N3	7.58%	7.42%	7.26%	7.11%	6.95%	6.79%
44	N4	7.83%	7.67%	7.51%	7.34%	7.18%	7.02%
45	N5	8.08%	7.92%	7.75%	7.58%	7.41%	7.24%
46	N6	8.34%	8.16%	7.99%	7.82%	7.64%	7.47%
47	N7	8.59%	8.41%	8.23%	8.05%	7.87%	7.69%
48	N8	8.84%	8.66%	8.47%	8.29%	8.11%	7.92%
49	N9	9.09%	8.91%	8.72%	8.53%	8.34%	8.15%
50	N10	9.35%	9.15%	8.96%	8.76%	8.57%	8.37%
51	N11	9.60%	9.40%	9.20%	9.00%	8.80%	8.60%

CREDIT RATE SCHEDULES (8-13)

52

Rate	8	9	10	11	12	13
1						
2	Group					
3	1	0.17%	0.17%	0.16%	0.16%	0.15%
4	2	0.35%	0.34%	0.33%	0.32%	0.31%
5	3	0.52%	0.51%	0.49%	0.47%	0.44%
6	4	0.69%	0.67%	0.65%	0.63%	0.61%
7	5	0.87%	0.84%	0.82%	0.79%	0.76%
8	6	1.04%	1.01%	0.98%	0.95%	0.92%
9	7	1.22%	1.18%	1.14%	1.11%	1.07%
10	8	1.39%	1.35%	1.31%	1.26%	1.22%
11	9	1.56%	1.52%	1.47%	1.42%	1.37%
12	10	1.74%	1.68%	1.63%	1.58%	1.53%
13	11	1.91%	1.85%	1.79%	1.74%	1.68%
14	12	2.08%	2.02%	1.96%	1.89%	1.83%
15	13	2.26%	2.19%	2.12%	2.05%	1.98%
16	14	2.43%	2.36%	2.28%	2.21%	2.14%
17	15	2.61%	2.53%	2.45%	2.37%	2.29%
18	16	2.78%	2.69%	2.61%	2.53%	2.44%
19	17	2.95%	2.86%	2.77%	2.68%	2.59%
20	18	3.13%	3.03%	2.94%	2.84%	2.75%
21	19	3.30%	3.20%	3.10%	3.00%	2.90%
22	20	3.47%	3.37%	3.26%	3.16%	3.05%
23	21	3.65%	3.54%	3.43%	3.32%	3.21%
24	22	3.82%	3.71%	3.59%	3.47%	3.36%
25	23	3.99%	3.87%	3.75%	3.63%	3.51%
26	24	4.17%	4.04%	3.92%	3.79%	3.66%
27	25	4.34%	4.21%	4.08%	3.95%	3.82%
28	26	4.52%	4.38%	4.24%	4.11%	3.97%
29	27	4.69%	4.55%	4.41%	4.26%	4.12%
30	N1	4.86%	4.72%	4.57%	4.42%	4.27%
31	N2	5.04%	4.88%	4.73%	4.58%	4.43%
32	N3	5.21%	5.05%	4.89%	4.74%	4.58%
33	N4	5.38%	5.22%	5.06%	4.89%	4.73%
34	N5	5.56%	5.39%	5.22%	5.05%	4.88%
35	N6	5.73%	5.56%	5.38%	5.21%	5.04%
36	N7	5.91%	5.73%	5.55%	5.37%	5.19%
37	N8	6.08%	5.89%	5.71%	5.53%	5.34%
38	N9	6.25%	6.06%	5.87%	5.68%	5.49%
39	N10	6.43%	6.23%	6.04%	5.84%	5.65%
40	N11	6.60%	6.40%	6.20%	6.00%	5.80%

41 (b) *Successor classification.* (1) (A) For the purposes of this
 42 subsection, whenever an employing unit, whether or not it is an
 43 "employing unit" within the meaning of K.S.A. 44-703(g), and
 44 amendments thereto, becomes an employer pursuant to K.S.A. 44-703(h)
 45 (4), and amendments thereto, or is an employer at the time of acquisition
 46 and meets the definition of a "successor employer" as defined by K.S.A.
 47 44-703(dd), and amendments thereto, and thereafter transfers its trade or
 48 business, or any portion thereof, to another employer and, at the time of
 49 the transfer, there is substantially common ownership, management or
 50 control of the two employers, then the unemployment experience
 51 attributable to the transferred trade or business shall be transferred to the

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

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

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

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

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

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

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

43 (ii) If the acquiring employing unit was not an employer subject to

1 this act prior to the date of the transfer, the successor employer shall have a
2 newly computed rate for the remainder of the contribution year which shall
3 be based on the transferred experience rating factors as they existed on the
4 most recent computation date immediately preceding the date of
5 acquisition. These experience rating factors consist of all contributions
6 paid, benefit experience and annual payrolls.

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

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

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

39 (c) *Voluntary contributions.* Notwithstanding any other provision of
40 the employment security law, any employer may make voluntary payments
41 for the purpose of reducing or maintaining a reduced rate in addition to the
42 contributions required under this section. Such voluntary payments may be
43 made only during the thirty-day period immediately following the date of

1 mailing of experience rating notices for a calendar year. All such voluntary
2 contribution payments shall be paid prior to the expiration of 120 days
3 after the beginning of the year for which such rates are effective. The
4 amount of voluntary contributions shall be credited to the employer's
5 account as of the next preceding computation date and the employer's rate
6 shall be computed accordingly. Under no circumstances shall voluntary
7 payments be refunded in whole or in part.

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

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

38 (f) The secretary of labor shall annually prepare and submit a
39 certification as to the solvency and adequacy of the amount credited to the
40 state of Kansas' account in the federal employment security trust fund to
41 the governor and the legislative coordinating council. The certification
42 shall be submitted on or before December 1 of each calendar year and
43 shall be for the 12-month period ending on June 30 of that calendar year.

1 In arriving at the certification contributions paid on or before July 31
2 following the 12-month period ending date of June 30 shall be considered.

3 Sec. 4. K.S.A. 44-717 is hereby amended to read as follows: 44-717.

4 (a) (1) *Penalties on past-due reports, interest on past-due contributions,*
5 *payments in lieu of contributions, benefit cost payments and interest*
6 *assessments made under K.S.A. 44-710a, and amendments thereto.* Any

7 employer or any officer or agent of an employer, who fails to file any wage
8 report or contribution return by the last day of the month following the
9 close of each calendar quarter to which they are related shall pay a penalty

10 as provided by this subsection for each month or fraction of a month until
11 the report or return is received by the secretary of labor ~~except that for~~

12 ~~calendar years 2010 and 2011 an employer or any officer or agent of the~~
13 ~~employer shall have up to 90 days past the due date for any of the first~~

14 ~~three calendar quarters in a calendar year to pay such employer's~~
15 ~~contribution without being charged any interest, however, when the 90 day~~

16 ~~period has passed, the provisions of this section shall apply.~~ The penalty
17 for each month or fraction of a month shall be an amount equal to .05% of

18 the total wages paid by the employer during the quarter, except that no
19 penalty shall be less than \$25 nor more than \$200 for each such report or

20 return not timely filed. Contributions, benefit cost payments and interest
21 assessments made pursuant to K.S.A. 44-710a, and amendments thereto,

22 unpaid by the last day of the month following the last calendar quarter to
23 which they are related and payments in lieu of contributions unpaid 30

24 days after the mailing of the statement of benefit charges, shall bear
25 interest at the rate of 1% per month or fraction of a month until payment is

26 received by the secretary of labor ~~except that.~~ An employing unit, ~~which is~~
27 ~~not theretofore that has not previously been~~ subject to this law and ~~which~~

28 ~~that~~ becomes an employer and does not refuse to make the reports, returns
29 and contributions, payments in lieu of contributions and benefit cost

30 payments required under this law, shall not be liable for such penalty or
31 interest if the wage reports and contribution returns required are filed and

32 the contributions, payments in lieu of contributions or benefit cost
33 payments required are paid within 10 days following notification by the

34 secretary of labor that a determination has been made fixing its status as an
35 employer subject to this law. Upon written request and good cause shown,

36 the secretary of labor may abate any penalty or interest or portion thereof
37 provided for by this subsection. Interest amounting to less than \$5 shall be

38 waived by the secretary of labor and shall not be collected. Penalties and
39 interest collected pursuant to this subsection shall be paid into the special

40 employment security fund. ~~For all purposes under this section, amounts~~
41 ~~assessed as surcharges under subsection (j) or under K.S.A. 44-710a, and~~

42 ~~amendments thereto, shall be considered to be contributions and shall be~~
43 ~~subject to penalties and interest imposed under this section and to~~

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

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

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

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

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

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

42 (2) Any employing unit ~~which~~ *that* is not a resident of this state and
43 ~~which~~ exercises the privilege of having one or more individuals perform

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

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

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

38 (d) *Assessments.* If any employer fails to file a report or return
39 required by the secretary of labor for the determination of contributions, ~~or~~
40 payments in lieu of contributions, or benefit cost payments, the secretary
41 of labor may make such reports or returns or cause the same to be made,
42 on the basis of such information as the secretary may be able to obtain and
43 shall collect the contributions, payments in lieu of contributions or benefit

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

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

37 (2) *Authority of secretary or authorized representative*. If any
38 employer or person who is liable to pay any contributions, payments in
39 lieu of contributions, benefit cost payments and interest assessments made
40 pursuant to K.S.A. 44-710a, and amendments thereto, including interest
41 and penalty, neglects or refuses to pay the same within 10 days after notice
42 and demand therefor, the secretary or the secretary's authorized
43 representative may collect such ~~contributions, payments in lieu of~~

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

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

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

42 (f) *Warrant.* In addition or as an alternative to any other remedy
43 provided by this section ~~and provided that~~, *if* no appeal or other proceeding

1 for review permitted by this law ~~shall then be~~ *is* pending and the time for
2 taking ~~thereof shall have an appeal or other proceeding for review has~~
3 expired, the secretary of labor or an authorized representative of the
4 secretary may issue a warrant certifying the amount of contributions,
5 payments in lieu of contributions, benefit cost payments, interest or
6 penalty; and the name of the employer liable for ~~same such amount~~ after
7 giving 15 days prior notice. Upon request, service of final notices shall be
8 made by the sheriff within the sheriff's county, by the sheriff's deputy or
9 some person specially appointed by the secretary for that purpose, or by
10 the secretary's designee. A person specially appointed by the secretary or
11 the secretary's designee to serve final notices may make service any place
12 in the state. Final notices shall be served as follows:

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

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

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

41 (4) *Proof of service.* (A) Every officer to whom a final notice or other
42 process shall be delivered for service within or without the state, shall
43 make return thereof in writing stating the time, place and manner of

1 service of such writ, and shall sign such officer's name to such return.

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

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

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

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

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

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

1 according to the code of civil procedure.

2 (E) Warrants shall be satisfied of record by payment to the clerk of
3 the district court of the contributions, payments in lieu of contributions,
4 benefit cost payments, interest assessments made pursuant to K.S.A. 44-
5 710a, and amendments thereto, penalty, interest to date, and court costs.
6 Warrants may also be satisfied of record by payment to the clerk of the
7 district court of all court costs accrued in the case and by filing a
8 certificate by the secretary of labor, certifying that ~~the~~ *such* contributions,
9 payments in lieu of contributions, benefit cost payments, interest
10 assessments ~~made pursuant to K.S.A. 44-710a, and amendments thereto,~~
11 interest and penalty have been paid.

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

17 (h) *Refunds.* If any individual, governmental entity or organization
18 makes application for refund or adjustment of any amount paid as
19 contributions, benefit cost payments, interest assessments made pursuant
20 to K.S.A. 44-710a, and amendments thereto, or interest under this law and
21 the secretary of labor determines that such amount or any portion thereof
22 was erroneously collected, except for amounts less than \$5, the secretary
23 of labor shall allow such individual or organization to make an adjustment
24 thereof, in connection with subsequent contribution payments, ~~or~~. If such
25 adjustment cannot be made the secretary of labor shall refund the amount,
26 except for amounts less than \$5, from the employment security fund,
27 except that all interest erroneously collected which has been paid into the
28 special employment security fund shall be refunded out of the special
29 employment security fund. No adjustment or refund shall be allowed with
30 respect to a payment as contributions, interest assessments made pursuant
31 to K.S.A. 44-710a, and amendments thereto, or interest unless an
32 application therefor is made *by the individual, governmental entity or*
33 *organization or the adjustment or refund is made on the initiative of the*
34 *secretary* on or before whichever of the following dates is later: (1) One
35 year from the date on which such payment was made; or (2) three years
36 from the last day of the period with respect to which such payment was
37 made. ~~For like cause and within the same period adjustment or refund may~~
38 ~~be so made on the secretary's own initiative.~~ The secretary of labor shall
39 not be required to refund any contributions, payments in lieu of
40 contributions or benefit cost payments based upon wages paid which have
41 been used as base-period wages in a determination of a claimant's benefit
42 rights when justifiable and correct payments have been made to the
43 claimant as the result of such determination. ~~For all taxable years~~

1 ~~commencing after December 31, 1997,~~ Interest at the rate prescribed in
2 K.S.A. 79-2968, and amendments thereto, shall be allowed on a
3 contribution or benefit cost payment which the secretary has determined
4 was erroneously collected pursuant to this section.

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

13 (2) The amount of such cash deposit or bond shall be not less than the
14 largest total amount of contributions, interest assessments made pursuant
15 to K.S.A. 44-710a, and amendments thereto, penalty and interest reported
16 by the employer in two of the four calendar quarters preceding any
17 delinquency. Such cash deposit or bond shall be required until the
18 employer has shown timely filing of *such* reports and payment of
19 contributions and interest assessments ~~made pursuant to K.S.A. 44-710a,~~
20 ~~and amendments thereto,~~ for four consecutive calendar quarters.

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

30 (j) Any officer, major stockholder or other person who has charge of
31 the affairs of an employer, ~~which that~~ is an employing unit described in
32 section 501(c)(3) of the federal internal revenue code of 1954 or ~~which~~ is
33 any other corporate organization or association, or any member or
34 manager of a limited liability company; or any public official, who
35 willfully fails to pay the amount of contributions, payments in lieu of
36 contributions, benefit cost payments and interest assessments made
37 pursuant to K.S.A. 44-710a, and amendments thereto, required to be paid
38 under the employment security law on the date on which such amount
39 becomes delinquent, shall be personally liable for the total amount of ~~the~~
40 *such* contributions, payments in lieu of contributions, benefit cost
41 payments and interest assessments ~~made pursuant to K.S.A. 44-710a, and~~
42 ~~amendments thereto,~~ and any penalties and interest due and unpaid by
43 such employing unit. The secretary or the secretary's authorized

1 representative may assess such person for the total amount of *such*
 2 contributions, payments in lieu of contributions, benefit cost payments and
 3 interest assessments ~~made pursuant to K.S.A. 44-710a, and amendments~~
 4 ~~thereto~~, and any penalties; and interest computed as due and owing. With
 5 respect to such persons and such amounts assessed, the secretary ~~shall~~
 6 ~~have available~~ *all may use any* of the collection remedies authorized or
 7 provided by this section.

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

14 (1) Wage reports, contribution returns and payments due after June
 15 30, 2008, for those employers with 250 or more employees or third party
 16 administrators with 250 or more client employees at the time such filing or
 17 payment is first due;

18 (2) wage reports, contribution returns and payments due after June
 19 30, 2009, for those employers with 100 or more employees or third party
 20 administrators with 100 or more client employees at the time such filing or
 21 payment is first due; ~~and~~

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

27 (4) *wage reports, contribution returns, payments and interest*
 28 *assessments made pursuant to K.S.A. 44-710a, and amendments thereto,*
 29 *due after June 30, 2023, for all employers with 25 or more employees and*
 30 *those third-party administrators with 25 or more client employees at the*
 31 *time such filing or payment is first due.*

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

35 Sec. 5. K.S.A. 44-709 and 44-717 and K.S.A. 2022 Supp. 44-703 and
 36 44-710a are hereby repealed.

37 Sec. 6. This act shall take effect and be in force from and after its
 38 publication in the statute book.